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MODERN CHIVALRY.

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MODERN CHIVALRY;

CONTAINING THE

ADVENTURES OF A CAPTAIN,

AND

TEAGUE O'REGAN,

HIS SERVANT.

BY H. H. BRACKENRIDGE.

QUID VETAT RIDENTEM DICERE VERUM.....HOR.

PART II.

VOLUME IV

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MODERN CHIVALRY.

CHAPTER I.

Hiatus valde deflendus, multa desiderantur.

HERE is a great gap. Not a word said of the Captain, from the packing up of Teague, and sending him off to France, until after the termination of the French revolution, and the armistice or convention of Amiens. Though the fact is, that he had been, all this time, travelling, and Teague had rejoined him, in the capacity of a pediseque, or foot-boy, as before. As to Duncan, the Scotch waiter, he had, long since, left the service, and taken a job of weaving in the neighbourhood, and was doing well. The Captain had endeavoured to persuade him to take to preaching, as many do in this country who are less qualified, but he refused, alleging, that though it was good work that pleased the customer, yet he had some scruples of conscience in undertaking the charge, not having been regularly called by ordination to the office.

Teague had been landed at Nantz, and being a real sans culotte, was liberated, and caressed by the multitude. With considerable eclat, he made his way to Paris. We hear of him at a very early period as made use of, by Anacharsis Cloots, the orator of the

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human race; this was in a procession, in which representatives of all nations, were introduced in their respective garbs, addressing the convention. Teague was in the character of an Esquimaux Indian, and passed his aboriginal Irish, for the native dialect of that people. An Irish officer that was present discovered the imposition, but the guillotine forbad him to speak, and he was silent.

This ultramarine person, (Teague) was a good deal distinguished during the reign of Robespierre, and was employed on many occasions, and discharged a variety of functions, so that though his morals were not much amended, nor his address much improved, yet he had contracted French phrases, and could interlard his dialect with a que voulez vous; and je demand pardon. At length he found himself in the conciergerie, a destination from which no talents, virtues, or even vices could exempt. And it was only on the fall of that monster of whom we have just made mention, that he was vomited with others from the caverns in which he had been secluded. How he ever got to America again, it is difficult to say. We shall leave that to those who may take from his own mouth the memoirs of his travels. It is sufficient for our purpose, that he did get back, and that he is once more in the train of the Captain. The fact is, that he had joined him in a most unexpected manner, in a short time after Duncan the Scotch servant had begged to be dismissed, to apply himself to a profession more congenial with his education.

We shall go no farther back upon the steps of the Captain, with the bog-trotter at his heels, than where we find them within a mile, or less of the village, where his home was, and where he had resided some years, before he had set out on his peregrinations. Passing through a wood just as he approached the town, he saw at some distance before him the semblance of

men suspended on the limbs of trees, or at least the exuviæ of men, coats, waist-coats, breeches, and hats. What can this be, said the Captain? Is it probable, that hearing of your return, Teague, the wags of the village have been making what are called paddies, and have set them up on these trees, knowing that this way we should come.

By St. Patrick, said Teague, I will paddy dem wid dis shalelah. I will tache dem to make paddies, and hang dem up for sign posts in de wood here. Dis is not St. Patrick's day in de morning neider: bad luck to dem, it may be some poor fellow dat dey have hang'd up in reality, for shape staling as dey do in Ireland.

I see nothing, said the Captain, but the emptyings of ward-robes, jibbeted through the grove: stretched on trees, or suspended from them, a phenomenon, which I am unable to comprehend, or explain; for I see no corn growing underneath, from which, a priapus, or scare-crow might affright the birds; nor can they be the vestments of people at work, near hand, or stripped to bathe, as I see no water pond, or river, but a dry grove.

The fact is, these habiliments were of the people of the town, who had hung them up to the dew, in order to take off the musk of a pole-cat which had affected them from the perfusions of one of these animals. For, not long before this, a typographist, had set up a paper in the village, and in the capacity of editor had chosen to assume the symbol, or hieroglyphic of the Porcupine. A happy nature had fitted him for a satyrist, and felicity of education was not wanting to qualify him for the office. He had not the pleasantry of Horace, nor the pungency of Juvenal, but an original stricture of his own that supplied the place of them. The truth is, he had been bred in the barracks, and had at his finger ends, the fami-

liar phrases of the common soldiery, with that peculiar species of wit, which is common with that occupation of men, and in that grade. Doubtless we see something like it among the plebeians of all classes and denominations; The women that sell fish at a certain stand in London, have a species of it, known by the name of Billingsgate, either because there is a gate of that name near the place, or formerly was one. The miners and coal heavers have a good deal of it. The scavengers and chimney sweepers are adepts, though without the least scholastic education, or knowledge of letters. I have known even in our own country, where we are remote from the seats of the muses, a good deal of it possessed, by way travellers, or boat men on our rivers; a kind of unshackled dialect; fettered by no rule of delicacy, or feeling of humanity. I have been turning in my mind what word in our English language, best expresses it, and I have found it to be that which has been given it by Thomas Paine, *black-guardism.* The editor of the Porcupine had scored the village not a little. I do not say rubbed. For that is a translation of the phrase of Horace: urbem defricuit; and conveys the idea of tickling, or causing a sensation pleasant, yet hurting a little. That was not the case here. For what man without indignation can bear the touch of the slanderer, *more especially if that slander is of a private, and domestic nature and alludes to what cannot be explained or defended. Not that it is true, but a man in the just pride of standing in society, would scorn to appeal to the public or bring it before a court!*

There was in the village a man of understanding, and sensibility who had been the subject of caricature and not chusing for reasons that weighed with himself, to take it in good part, thought of retaliation. But what could he do? The same language was unbecoming a gentleman. The like strictures of for-

bles or of faults on the part of an adversary, could only become the character of a subordinate. Nor was it so much his object to repress the licentiousness of this buffoon, as to correct the taste and judgment of the public who did not all at once distinguish the impropriety of countenancing such ribaldry. This they continued to do by receiving his papers.

With a view to this having taken a pole-cat on the mountains, he had put it in a cage and hiring an office contiguous to that of the Porcupine, he kept it there, suffering the boys of the village to provoke it, and the dogs to bark at it through the bars. It was in vain to complain; the owner called himself Paul Pole-cat, and when Porcupine expostulated and justified his gall on the *freedom of the press*, Paul fortified himself on the liberty of the *Express*.

But it was not Porcupine alone, nor his unoffending wife and family that had reason to complain of this nuisance. The children running home to their parents, and the dogs with them brought the perfume to the houses of the village. The wearing apparel of almost every one was affected with the musk; the women buried their dresses; the men in some instances did the like and in others, hung them up to the action of the air, and the dews of the adjoining wood.

The vestiges of these were the phenomena, which the Captain saw, in his approach to the town.

He had now got within sight of the main square, when a tumultuous assembly struck his eye; some with fists raised; others with sticks, and all in a menacing attitude. He could also hear tongues of people altercating with one another and using opprobrious epithets.

The fact was, that the village had become divided. Those who had been the subjects of the obloquy of Porcupine, justified the emission of the cats, and were of opinion that the one had as good a right to be

borne as the other. Council had been taken and learned opinions given. But this making the matter no better, the dissention had increased, and the people had come together in a rage.

Teague at a distance seeing this, stopp'd short; said he, what means all this paple in de street? It is as bad as dat of St. Anthony in Paris, or de place de greve where dey have de gillotine. The devil burn me if I go farther, 'till your honour goes on and sees what is de matter.

The Captain advancing to the populace was recognized by them, and his appearance contributed not a little to a longer suspension of hostilities.

Countrymen and fellow-citizens, said he, is this the satisfaction that I have, in returning amongst you after an absence of several years, to see man armed against man, and war waged not only in the very bosom of the republic, but in the village which I have instructed by many precepts? What can be the madness that possesses you? are not the evils of life sufficient? but you must increase them by the positive acts of your own violence. You cannot wholly preserve yourselves at all times free from the maladies of the body, or the distresses of the mind. But it is in your power greatly to assuage these, by the virtues of temperance and moderation. What fury can prompt you, to this degree of apparent resentment, and approaching tumult. Is it local or general politics? Is it any disagreement with regard to your corporate interests, or is religion the cause? Has any flagrant instance of moral turpitude, or exceeding knavery in an individual, roused you to this excess of violence, and exclamation?

Captain, said a middle aged man stepping forward, companion of his years, and who had long lived with him in the village; it is not only pleasing to see you return in apparent good health, but more especially,

at this particular moment when your interference cannot but be of the greatest use, to the citizens; not only on account of that confidence which they have in your judgment and discretion, of which they have a lively recollection; but as they must naturally think that your travelling must have given you knowledge, and brought you home full fraught with learning and information. Your humanity is also, well remembered by them, that man, woman or child was never injured by you, in life, estate, or reputation; that on the contrary, it was always your study to do good, and compose differences. Now a misfortune has happened to the village; If I can call it a misfortune, which was at first thought a good; a printer came to this place and set up a paper, or gazette, by taking subscriptions from those that were willing to give them. His device was the Porcupine; scarcely a month had gone over his head before he began to lampoon; searching into the secrets of families, and publishing matters of individuals, with which, whether true or false, the public had nothing to do; and this in so low and disorderly a manner, that the more intelligent have disapproved of it; but the bulk read, and it seems to increase rather than curtail his subscribers. A young man on the other hand that has had an academic education, meaning to burlesque his manner of writing, having gone to the mountain with a dog, or a trap, and having taken a pole-cat, he puts the beast in a cage; hires that frame building that you see, one story high, and but a room on a floor, and calls it his office. Here he places the pole-cat with a man to attend it. What a running of boys; what a barking of dogs we have had! and when the children run home, and the dogs after them; what a putting of the hand upon the nose, by the servant girls and the mistresses, at the smell that accompanies. The young man justifies himself under

the pretence that it is but retaliation of the odour that proceeds from the press of Porcupine; for, as this affects the organ of smelling, that disgusts the judgment of the mind. The people are divided, as will always be the case, if for no other cause, yet for the sake of division; because the pride of one man forbids him to think just as another does. The adversaries of the oppossum, or what else it is, insist that it shall be put down as a nuisance, and have met with clubs, staves and knives, to carry the threat into execution. The advocates of the animal on the other hand have convened to oppose them.

But said the Captain, did I not leave you a regular corporation? Have you not power to make bye laws? and is not this done upon notice given by the chief or assistant burgesses? why such hurry scurry as this? moreover it is a weighty question that agitates the public mind; a question of right: and where the rights of the citizen come in question, I hold it a most delicate thing to decide; in a free government, more especially, where the essence of liberty is the preservation of right; and there is the right of conscience, the right of property, and the right of reputation. This is a right of property; for if this animal which is feræ naturæ, has been reclaimed by the owner, he has a right to put it to such use as suits his trade, or accords with his whim, provided that it does not affect the rights of others. The limit, boundary, or demarcation of this use, is a question of wise discussion and examination; and not in a tumultuous assembly, heated with wine, but with the ardency of their own spirits. I advise therefore, and so far as my weak judgment deserves to be regarded would recommend, that each man lay down his shalelah, baton, or walking-stick, and retire for the evening; and convene to-morrow in a regular town meeting, where the adversaries and advocates on both sides

may have an opportunity of being heard. To-morrow when you meet with the chief burgess in the chair, to keep order, and preserve decorum, assign the proper times of speaking, and call to order on a deviation from the subject, as is usual in deliberative assemblies, the business can be taken up, and conducted as is proper in town meetings. I am now just from my journey; somewhat fatigued; but more moved by the consideration that I am on horse-back, and it is not becoming that I take a part in your debates as if my horse were to speak also; for though it is true that some of you may speak with perhaps as little sense as he could, were he to open his mouth and attempt utterance; yet the decency of the thing forbids, and even the exercise of the right might be questioned; for the faculty might exist, yet he could not be considered as legitimately franchised to this privilege, at least not having a right to vote in town meetings. For though in the congress of the United States, the representatives of the territories, not yet organized into independent states, and made regular members of the Union, have a right to speak, but not to vote, this is not to be drawn into precedent in subordinate corporations; for that is a special provision of the constitution And it is even indecorous for myself to sit here and speak, mounted, as occupying a more elevated station; and should I descend from my cavalry, my servant whom you see yonder, is kept at bay, by an apprehension of your swords, and refuses to come up, so that I am without an attendant to hold the beast; all things considered therefore, I move, a chairman not yet being appointed, who might put the question, that you adjourn, or dissolve until to-morrow about this time, when the matter may be taken up as we now have it, and the affair canvassed as becomes members of the same community, and inhabitants of the same village.

It cannot be difficult to conceive that these words had a favourable effect upon the audience; as oils compose a storm. For as the waves of the ocean rise and fall suddenly, so the passions of men; and in no instance more than where they are just coming to blows; for, approaching anger disposes to peace, every one having felt half a blow already on his head; and the difficulty only is to get an excuse, for returning, or sheathing the weapon. *They are much obliged to the man that councils concord; and advises the putting down the brickbat, or putting on the coat. Even in duelling it holds the same, and the principal is a friend to the second ever after, that manages the matter so wisely that no blood is shed.*

It was moved and seconded that in the mean time the keeper, or as he called himself the editor of the pole-cat, should keep his charge within the claustrum, or bars of his cage, and covered with a matting, so that access might not be had to him, by man or beast, or egress on his part, of that offensive odour, which had been the cause of the disturbance. This, the partizans of the skunk, were willing to admit and sanction with their acquiescence, on condition, nevertheless, that the Porcupine in the mean time, should also restrain his quills; in other words, suspend the effusions of his press, and cease to distribute papers for a day or two during the pendency of the debate. This was thought reasonable, and carried by the multitude holding up their hands.

CHAPTER II.

CONTAINING PROCEEDINGS OF THE TOWN MEETING.

THE day following, a meeting being held, and the chief burgess in the chair, an advocate of Porcupine took the ground and spoke.

Gentlemen, said he, the press is the palladium of liberty. "The image that fell down from Jupiter." The freedom of the press is essential to liberty. Shackle the press, and you restrain freedom. The constitutions of the states have provided that the press shall be free. If you muzzle this, you muzzle the mouth of man.

It is not the freedom of the press, said one interrupting him, it is the abuse of it that is in question.

The chief burgess called to order, and the speaker went on.

That is the point said he, to which I meant to come. What shall be said to be the abuse of the press? In order to determine this, we must consider its use. This is,

1. The amusement of the editor. For as some men amuse themselves, shooting, fishing, or chasing wild beasts, so men of literary taste, find their recreation in penning paragraphs for a paper, sometimes containing information, or observations on the state of

empires and the characters of men; at other times by descending, or not rising at all, but confining themselves to the subordinate affairs of indiduals, and private persons.

2. The profit of the editor: and this depends on the number of subscribers It is not every one that has a taste for refined writing. Guts and garbage delight bears; and swine swill the trough in preference to the running stream. Scurrility is the gout of many. Nay, it is the more prevailing taste;

"The world is naturally averse
To all the truth it sees or hears;
But swallows nonsense and a lie,
With greediness and gluttony."

In Britain, or some other countries, delicacy may succeed. But the coarse stomachs of the Americans crave indecency, at least a portion of it. Rough like their own woods, and wild beasts, they digest scurrility.

Well said, Porcupine! said a pole-cat man, taking the ground in his turn: But this furnishes a ground to justify the introduction of the pole-cat. You talk of the freedom of the press. Here is the freedom of the express. Nay the word *expression* which is common to both institutions, the artificial one of the types, and the natural one of the cat, shews the original to be similar, and the comparison *to run on all-fours*. If the ink cast into black letter, and carrying with it pain and pungency from the ideas communicated, is tolerated; much more the volatile alkali of the animal that is now set up, is to be borne, as not more offensive to body or mind. Shall the bark of trees made into powder, and this powder into a liquid, impregnated with thought, and put upon paper, and carried to the press, be accounted harmless, notwithstanding the violence of the decoction, yet the wild cats that

inhabit these trees, and are denizens of the forest, be prohibited because of a bag under their tails which contains an unsavoury distillation, and may be occasionally spurted upon men ?

A lawyer spoke on the side of Porcupine. The principles of the common law embrace this case. It is unlawful to exercise trades in towns that occasion noisome smells ; they are abateable as nuisances.

Grant it, said a juris-consult, on the pole-cat side ; but when it is in retaliation, or in self-defence against an editor whose defamation is more offensive to the feelings of the mind, than the hogo of a civet to the sense of smelling ; or when it is used in burlesque, and by way of analogy and symbol to explain the impropriety of encouraging personal abuse, by taking papers, it may correct by leading to reflection. The mind may be insensible to abstract lessons, but a paradigm, or object set before it may affect. As to this man exercising his trade by the smell of a cat, it is an occupation which can be carried on to advantage only in a town ; for it is in towns chiefly that editors, assemble ; and it is by setting up under our noses, and affecting the readers, that the impression is made. For if the public will receive libels into their houses for the use of themselves and families, let them take a little of this hartshorn with it and if they will have the one, bear the other. A ground of the common law is general reason adapted to particular cases. I grant that it even goes so far as to make the keeping hogs in a pen near my window, in towns, a nuisance ; but this is a town incorporated, and can by a bye law regulate a new trade I hold it to be a matter of vote whether this quadruped shall be tolerated or excluded.

The advocate for the press rejoined. The common law, said he, protects the press. It is the right of the tongue transferred to the hand : it ought to be as free as the air that we breathe : The privilege, a-

unfettered as the organs of articulation. But what is there in the common law to protect from the aspersion of this animal?

The pole-cat man replied. It is on principle and by analogy, said he, that it is protected. Does not the law of water courses apply to this. If a man divert a stream from my meadow, or obstruct one running through it, so as to dam it up, and drown the grass, have not I a remedy? shall this man at much expence and charge bring a beast from the mountains, tame it, or reduce it under his dominion, and apply it to a purpose in civilized and domestic life, and shall we say that the common law does not protect him in the enjoyment of its musk?

The advocate on the side of Porcupine rejoined. So use your own said he, that you trespass not upon another man's. If you keep your smell, and hogs at home to your own nose, there is no objection. But in the nature of the thing it cannot be; for the air is the natural conductor; and therefore it cannot but exist a nuisance.

Surrejoinder; but after all, is it more a nuisance than the press, which it has in view to correct?

At this instant a commotion was perceivable amongst the multitude: not on account of what was said, or meaning any disturbance like debate; but the rumour was that a fresh cat had been brought from the hills above the town, and was on its way to the college-man who had offered a reward for an additional puss to increase his stock; and as it was conjectured, meant to play it off under the pretext that the prohibition contained in the armistice extended only to the individual beast that he had before in his possession.

The Captain, at this, rising, said; this is not fair. It is within the reason, if not the express words of the convention, that all annoyances by steam, vapour or

effluvia proceeding from a pole-cat shall be suspended during the pendency of this question; and it is an evasion to substitute another badger, and by that means attempt to elude the stipulation.

The Pole-cat man got up to explain. It is far from me, said he, to elude or evade the performance of the stipulation. The fact, is, that hearing, a day or two ago, that Porcupine, was about to enlarge his sheet, and for that purpose had employed a journeyman, more, I thought it not amiss to extend the scale of my vapour and employ two conduits instead of one. For that purpose had sent to the woods, for another cat, which is now on the way, but in a leathern bag by my directions, and not to have regress, or egress, until this assembly shall dissolve, nor for a reasonable time after, that eundo, and redeundo, or going as well as coming, you may be safe, let what will be the issue of the controversy; whether I am to break up stock, or be suffered to go on.

This explanation gave satisfaction, and composed the assembly.

Another speaker had now occupied the ground. I cannot say the floor, for there was no floor. I am, said he, for supporting the press. The objection is, that it is a blackguard press. But while there are blackguards to write, must they not have a press? Is it only men of polished education that have a right to express their sentiments? Let them write in magazines, or have gazettes of their own, but not restrict the right that people of a more uncultivated understanding have to amuse themselves and others with their lucubrations. You call us the Swinish Multitude, and yet refuse us the food that is natural to us. Are there not amongst us those that have no relish for disquisitions on the balance of power or form of governments, agricultural essays, or questions of finance; but can relish a laugh raised at the expense of the

master of a family ; or a public character in high station ; if for no other reason, but because it gratifies the self-love of those who cannot attain the same eminence ? Take away from us this, and what have we more ? What is the press to us, but as it amuses ?

I think, said another rising, that the gentleman means to be ironical. But let us take the matter seriously. I am on the same side with him, but not for the same reasons. I take it, that scurrility may be useful to those that hear it, and are the subjects of it. It may bring to a man's knowledge and serve to correct foibles that he would not otherwise have been conscious of, or amended. Men will bear from the buffoon or the jester, things they would not take from a friend, and scarcely from a confessor. It was on this principle that in the middle ages of Europe, a profession of men was indulged, in the houses of the great, called the Joculators. So late as the time of James I. we had one of these of the name of Archy. The Duke of Buckingham having taken offence at something that he said, had him whipped. It was thought beneath a man of honour to have taken notice of it ; and inflicted punishment. I consider the bulk of our editors as succeeding to the joculators of the early periods ; and as the knights of character and dignity of those times were not bound to notice the follies, however gross of jesters ; so now a gentleman is not bound to notice the defamation of gazettes ; nay, as in the former instance, it was deemed uncourteous, and unbecoming to resent what the fool said, so now what a printer chuses to publish. Selden in his table talk remarks, " That a gallant man, is above all words. We have an example of this in the old Lord of Salsbury, who was a great wise man. Stone had called some Lord about the Court fool. The Lord complains, and has Stone whipped. Stone cries, I might have called my Lord of Salsbury often enough, fool

before he would have had me whipped." As in the case of the Merry Andrew, even when there was no wit, it was taken for wit; so now, when an editor means to divert, however dull his abuse, it ought to be the mode to laugh, to keep those who know no better in countenance.

The captain rising and putting himself in the attitude of speaking, seemed to claim the attention of the audience. I would wish to know, said he, how the ancients managed these matters: in the republics of Greece and Rome especially. For since I have been abroad, and heard public speeches, I find that it is no unusual thing to draw illustrations from the sayings and doings of antiquity. In deliberate assemblies talking of governments, they tell you of the Amphytrionic Council; the Achean league, the Ionian confederacy. What was the freedom of the press at Athens, or at Rome?

The fact is, said an academician, there was no press at these places, or in these times. The invention of printing is of later date. But they had what they called the style, and they impressed their thoughts upon wax. They made use of ink in copying upon vellum and parchment. But notwithstanding the want of a press, they were not without satyric salt in their writings. Nor are we to suppose that they were altogether free from what we denominate scurrility. They could call a spade a spade. Aristophanes was a blackguard. His Comedy of the Clouds is a sufficient specimen. Lucilius, amongst the Romans was a rough man. Cum lutulentus flueret, &c. Do we suppose that nature was not then the same as it is now? On board the Roman gallies was there no low humour? In the Roman camps none? In the Forum no occasional ribaldry? Would not this naturally get up into higher walks? Would it not creep into corporations? sometimes in verse; sometimes in prose.

The poet speaks of the fesscenine verses. Amongst the Romans the Saturnalia, or days of Saturn became a festival, in which it was allowable to exercise their faculties in all intemperance of language.

This is all wide of the question, said an unlearned man, holding his hand upon his nose; it is shall we tolerate the pole-cat in this village?—For, maugre all the pains that may have been taken to restrain the pett, and confine it by a matting, I feel a portion of the fetor this very moment, come across my nose, by a puff of wind from that quarter, where it is. I move that the question be taken, whether, whatever becomes of the press, the nuisance of this beast, be suffered in the vicinity. For what can a newspaper do, compared with this? It is sent us and we read the publication. But this is involuntary, on our part, and there is no saving ourselves from the exhalation.

I move the previous question said a friend to the baboon; I move that the press be put down.

There is hardship both ways, said an elderly inhabitant. In a community different interests will exist. Family interests; family attachments; party conceptions; and party interests. To have a printer all on one side, is an inequality. What if we prevail upon the owner, or as he would call himself the publisher of the pole-cat, to give up or sell out his establishment, dismiss the wild beast, or return it to the mountains, and institute in its place, a counter press of types and black-ball that may be a match for Porcupine.

The Captain, rising hastily; a thing unusual with him, for he was naturally grave and sedate; but suddenly feeling the impulse of the congruity, he started from his seat, and seconded the proposition of another press; for said he, the very kind of editor qualified for such a press, is at hand; a waiter of mine. A bog-trotter, taken, not on the Balagate, but, on the Irish mountains: an aboriginal of the island; not your

Scotch-Irish, so called, a colony planted in Ulster, by king James the first of England, when he subdued the natives; but a real Paddy, with the brogue on his tongue, and none on his feet; brought up to sheep-stealing from his youth; for his ancestors inhabiting the hills, were a kind of free-booters, time immemorial, coming down to the low grounds, and plundering the more industrious inhabitants. Captured by traps set upon the hills, or surrounded in the bogs, attempting his escape, he had been tamed and employed, many years, digging turf, before he came to my hands. I bought him from an Irish vessel, just as a curiosity, not that I expected much service from him; but to see what could be made of a rude man by care and patience. The rogue has a low humour, and a sharp tongue; unbounded impudence. And what may be a restraint upon the licentiousness of his press, should he set up one, he is a most abominable coward; the idea of cudgeling will keep him in bounds; should he over-match Porcupine, and turn upon his employers. He has all the low phrases, cant expressions, illiberal reflections, that could be collected from the company he has kept since he has had the care of my horse, and run after my heels in town and country for several years past. What is more, he has been in France, and has a spice of the language, and a tang of Jacobinism in his principles, and conversation, that will match the contrary learning carried to an exorbitant excess in Porcupine. I do not know that you can do better than contribute to a paper of his setting up. He may call it the Mully-Grub, or give it some such title as will bespeak the nature, of the matter it will usually contain.

The academician at this came forward. I am far, said he, from a disposition to spoil sport; but when the useful is mixed with the jest, I count every point gained.

Omne tulit punctum—

I never had intended more, said the pole-cat man, than to reach the sensations of the multitude, and bring them to their senses. It is only by an appeal to the sense of feeling that the mind sometimes can be awakened. The public have now some idea that the licentiousness of the press, is not more a nuisance in the moral, than offensive smells are in the physical world. I will agree that the cat be removed, and as a substitute, shall subscribe to the Mully-Grub.

CHAPTER III.

THE day after the town meeting, the Captain began to reflect, that he could not avoid being implicated in the character of the paper about to be established. O'Regan was known to be his servant; at least to be under his influence, and he would be considered the real editor; Teague the ostensible, and though the fact was known at home, that he had nothing to do with it, yet abroad, it would bear a different construction, and refutation would be difficult. Having supported the character of a gentleman, and being still willing to support that character, how could he endure to have the volumes of scurrility, that would appear, imputed to him; or supposed to be admitted with his approbation. Uneasy with this upon his mind, he could see no way to get out of the labyrinth in which he had involved himself, by inadvertently proposing Teague. He thought it however his duty, to disclose to the bog-trotter, the office to which he was destined. Maintaining good faith, he was unwilling to make use of his influence to dissuade from the undertaking; or to deter by representing the danger that existed, and the consequences that might ensue. This he could easily have done, by suggesting the guillotine, or even a cudgeling, the more

common mode of punishment, in this republic. But good faith forbade.

But what was the amazement of every one, when news was brought, that Porcupine, had decamped in the mean time. Whether it was that the talents of Teague had been magnified, and he did not choose to engage in competition with one so much his superior, lest he should lose by comparison, the reputation he had acquired; or what is more likely, the constables were after him for debt, his press and types having been seized the day before, and sold for rent, and new demands, of a smaller nature coming against him, fines and penalties also hanging over him for libels; and damages recoverable in actions of defamation; but so it was, that he had disappeared.

The Captain was relieved from the embarrassment which he had endeavoured to conceal, because he now saw a way open to set aside the idea of a press, which he had reason to apprehend his bog-trotter would not be competent to conduct with reputation.

Townsmen, and fellow-citizens, said he, seizing an opportunity to speak, the reason has ceased upon which we had proposed to act: the setting up the bog-trotter in the capacity of an editor as a match for Porcupine, for he has disappeared; and what need we buff at the bear when there is no bear to buff at. Unless indeed we could set him up, expecting from him a chaste and pure paper containing solid information, and strictures useful to the republic. But that from his education and manners, we have no reason to expect. It is true, if he had sense to collect the ideas, and give them expression, he has had opportunities to observe what if known and digested, might essentially serve to preserve from extremes in a free government. He has

seen the folly of the people of France, if, those occasionally thrown into the representative assemblies, could be called the people. He has seen the folly of these in reducing all things to the first elements instead of accommodating to existing establishments; of deracinating from the foundation church and state, and bandying the term liberty until ignorance and usurpation terminated in despotism. For though at the commencement of a revolution, active and uninformed spirits, are useful, or perhaps absolutely necessary, like the subterranean fire throwing up continents; yet as in this case, the fostering dews, and the breath of the atmosphere, are necessary to give soil and impregnate with vegetation; so after the stirrings of mens minds, with a political convulsion, deliberate reason, and prudent temperament are necessary, to preserve what is gained, and turn it to advantage. But this sans culotte, for so he was called in France; and well he might; for he was without femorals when he went away, and when he came back; this sans culotte is not a Mirabeau. He has kept no journal: he has made no observations except of mens heads chopped off by the guillotine. He has brought back little with him, but ce que dit; que ce vous la; donnez moi, and such like. I think we are well off with him and let him go to his vocation.

OBSERVATIONS.

THE preceding chapters were written some years ago, while an editor of the name of Cobbet, published a paper under the title of "Porcupine." But the breaking up of that paper in a manner similar to that just stated, prevented the going on with the allegory, or the handing to the public by the way of the press, in some shape the pamphlet begun. Some time since, the appearance of a certain Callender, in a paper under the title of the Recorder, had induced me to look at what I had intended for Porcupine, and to think of continuing it to some point and winding up of the story; but the man drowning himself, or being drowned by accident, stopped me in my intention, as it would be like throwing water on a dead, or as the proverb is, a drowned rat, to say any thing that had a relation to him.

But having a little leisure on my hands, and in warm weather, liking light work, I amused myself with saying some things that were on my mind on other subjects, and I thought I would make this which I had already written, the introduction. For the fact is, that I mean this tale of a Captain travelling, but as a vehicle to my way of thinking on some subjects; just as the ancients introduced speakers in a dialogue, occasionally at banquets; or as the philosophers in their walks and conversations, moralized in parables, and feigned cases, a way of reasoning, and address

less offending the self-love of men than what has the appearance of immediate and direct instruction. Nor, will the publication of the foregoing hints *on the illiberality of the press*, be thought, even now altogether useless; for though since the death, or departure, of the two monsters just named, there has been an ebb of this flood of scurrility, yet dropping the figure, the American press, has not been wholly free from the stains of the like paragraphs. The application therefore may not be wholly without an object, and, in the painting there may be seen some existing resemblances. For though, as the almanac-makers, say "it is calculated for a particular meridian, yet it may without sensible variation, serve other latitudes." No man can have a higher opinion of the dignity of station occupied by the editor of a paper under a free government, than I have. I think it one of the most honourable, as well as the most useful in society. I am unwilling therefore that it be degraded, and I am happy to observe that the example of the two monsters mentioned, has had the effect to disgust the public.

I take the pulpit, the courts of judicature, and the press, to be the three great means of sustaining and enlightening a republic. The Scripture is replete with the finest sayings of morality. With a scholar of the Latin and the Greek school, it is delightful to quote in conversation, or writing, the classical sentences of antiquity, aptly applying them to the occasion: enriching the discourse with apposite thoughts; pleasing the hearer, or the reader, and doing credit to the person himself; drawing out from his treasury, things new and old. But these writings of an oriental cast, contain pithy observations upon life and manners, than which there can be nothing more delightful to remember and quote, and more profitable to carry into practice. Reading the Scriptures by young peo-

ple ; hearing them explained and introduced by quotation, sermon and lectures from the pulpit, raises the affections to virtue, and helps the judgment in the conduct of life.

The courts of judicature, are a school of justice, and honour. A great ground of the law, are the principles of universal justice. The discussion of council ; the verdicts of juries, the decision of the courts, have respect to the great principles of moral honesty. But the sphere is confined, compared with that of the press, which has an extensive range ; and for this reason ought to preserve the greater delicacy in language and sentiment. Even the war of the sword has its laws —It is not allowable to poison springs, or the means of life. In a paper war nothing is justifiable that does not tend to establish a position, or determine a controversy ; that which outrages humanity, is the cruelty of a savage who puts to death with torture, or disfigures, to gratify revenge.

To know what may be said in a paper, or in what manner it may be said, the editor whom the public alone knows, need only consider what would become a gentleman to say, in promiscuous society. Whether conversing in the manner he writes, or in which, what is inserted, is written, he would be heard with respect, and treated with civility. Good breeding is as necessary in print as in conversation. The want of it equally entitles to the appellation of an ill-bred-man. The press can have no more licence than the tongue. At the tribunal of common sense, it has less, because an expression might escape a man, which might receive pardon, or excuse, as the offspring of inadvertence ; but writing is deliberate, and you may turn back and strike out the allusion, or correct the term.

National character is interested in the delicacy of the press. It is a disgrace to a people to have amongst

them volumes of scurrility circulated through their post-offices, with a peculiar privilege of centage, placed upon the benches in our public houses, or sent home to our private dwellings.

Is this the occupation to which it ought to be an honour to belong, to which a father would wish to put a son, having educated him with the best advantages, and giving him, as he had thought, a duty as sacred as the priesthood, and with a more exclusive sphere of action than the barrister; having it in high commission by the constitution of his country, "to canvass the conduct of men in public offices," and inform the public, "where the matter is proper for public information."

It does not follow, that because a man takes a paper, that he approves of all that is in it. It is certainly censurable to continue our subscription to a paper, the prevailing tenor of which is defamatory of individuals; but were we to reject a paper because it is occasionally so, there are few papers that we should take at all. The American press, has been abominably gross, and defamatory, and there are few publications of this nature, that have been at all times unexceptionable. A man will be astonished sometimes to hear of himself, or of others, what has not the slightest foundation, but in the invention of the paragraphist. There may be some prototype, filmy origin to the unsubstantial fabric; perhaps not even a vapour, but in the breath of the defamer. Is the assassin odious, and not the author of anonymous abuse? Yet such is the error of opinion with some, that they think it not dishonourable to attack anonymously. It is cowardice in a free country, where the law is equal; where no Cæsar exists to make it necessary to conceal the author of the pasquinade. A brave man will scorn subterfuge, and shade. An honest man will avow himself and his opinions.

CHAPTER IV.

NOTWITHSTANDING the Captain thought he had got quit of Teague, in the matter of the press, he had still some trouble. For the bog-trotter was dissatisfied. He had an hankering after the editorship, and talked of taking up subscriptions. To put him off, the Captain suggested the publishing his travels. Teague, said he, if many a man had what you have in your power, he would make a fortune by it. You have been in the Conciergerie. That of itself, might make a chapter that would fill a volume. If you take up subscriptions, why not for such a work as that? It will sell for a ready penny these times; I would advise you to go about it

Och, on my shoul, said Teague, but it would make a book as big as the praists' bible, if I was to tell all dat I saw on toder side de great water. In dat great country, old France; where de paple talk all at once wid de brogue on deir tongues, and say nothing De devil burn me, but deir foutres, and parbleus, would make a book, as big as a church staple.

Well done Teague, said the Captain; you must then set about it. The first thing it will behoove you to consider, is the manner in which it will be written; whether your narration shall be in the first person, as;

"I did this," and "I said that;" or whether in the third person, as it were one speaking of you, as, "O'Regan having done so, and made an observation to this effect" And whether it shall be in the way of continued narrative, with chapters, or in the shape of a journal, or be cast in the way of letter. For all these modes of writing are used as best suits the traveller; or may be thought most pleasing to the reader. One advantage you will have, that you need not stick pertinaciously to the truth; for travellers have a licence to deviate; and they are not considered as on oath, or upon honour in giving their accounts; embellishment is allowable. Some illumination of the narrative: though, confining yourself to the truth strictly, I make no doubt, your story will be sufficiently extravagant, and of course, border on the marvellous.

The fact was, that the bog-trotter had incidents sufficient to enliven his history. He had been in the suit of Anacharsis Cloots, and personated an Esquimaux Indian; he had been taken up in a balloon some distance from the earth, and let down by a parachute, instead of a sheep. It is true, this was not with his own consent, but by force; the Parisians thinking it of little account whether the experiment was made with him or a less valuable animal. It is true, to make amends for this, a royalist lady fell in love with him, thinking he had a resemblance to the young Duke of Orleans. He had made a fortunate escape in the conciergerie. A prisoner in the next cell, No. 1, finding the letter G, put upon his door, which stands for guillotine; exchanged for a few louis's with O Regan, No. 2 —But an order came to reprieve No. 1, and to take No. 2, meaning the bog-trotter. The consequence was, that the Frenchman was put into the cart, and our sans culotte escaped.

It would make a book, to exhaust these particulars, and many more that occurred. The Captain having recommended the work, was concerned to have it accomplished with some credit to those concerned, and therefore thought it advisable to give the author some hints before he entered on the task.

Teague, said he, the first thing to be thought of, is a place to write. The extremes are two, the cellar and the garret. The cellar was chosen by an orator of Greece, to write his orations, or at least to prepare for the writing them; for in this, he is said to have copied over eight times the history of Thucidydes. Whether it is the darkness, or the solitude of the cavern, that is congenial to the talent of writing, may be a question. I should think, however, that the ærial mansion of a garret is most favourable to the lighter species of writing, such as madrigals; or paragraphs in magazines, or novels. But as yours is a serious work, it may be above the subterranean, and below the firmament. Perhaps a middle story may suffice. It will depend, however, on your head. If you find yourself light, go down; if heavy, mount; and thus adjust your apartment to your feelings. The wasps chuse the garret; but the spider is found in the cellar; and his weaving is an emblem of the composition of an author.

As to stile, just write as you would speak, and give your account with simplicity, without affectation; understanding your subject well, and using no more words, than is necessary to express your meaning.

As to paper, whether common or woven; or as to type, whether single or double pica; these are terms I do not understand. I see them in the advertisements, and that is all I know about them. Whether duodecimo, octavo, or folio, will depend upon the bulk of what is to be printed.

CHAPTER V.

THE Captain had now been more than a month at home, making enquiry into the history of the village; what changes in the domestic affairs of his neighbours; what good or bad fortune had happened to individuals, at the same time walking through the town. and observing the improvements or dilapidations in the buildings or streets It was obvious that little attention had been paid, for some time, to public works; the pavements were neglected, and the ways and water-courses suffered to fill up. An aqueduct begun, to bring a spring from the hill, was left unfinished.

What can be the reason of all this, said he, to the citizens?

It was answered, that the chief and assistant burgesses had been extravagant; that the works, which, by the charter of incorporation they had a power to project, were extensive, and the consequent taxes which they had a right to impose, and which became necessary, were thought oppressive. The people had left out these officers at the annual election, and chosen new. That these wishing to preserve popularity, had let all matters rest, and had neither made improvements, nor raised taxes.

And will this please always. They have turned out one set for doing too much; and they will turn out the other next for doing nothing.

But why not hit a medium. said the Cap'ain?

A difficulty occurs, continued the speaker. In the works projected, the people insist that no man shall be consulted in his own occupation. The mason shall make out the bills of scantling: and the carpenter determine the arches of a stone bridge.

That is, said the Captain. as in a city that I passed through in my travels. The physicians claimed a right to judge of laws, and the lawyers of physic. Reversing the maxim, that every man is to be trusted in his own profession.

This is republicanism run mad. The sovereign people would do well to imitate other sovereigns, at least in this; that they trust even foreigners in the arts, and not by an unreasonable jealousy, loose the advantage of judgment, which it is not in the nature of things, that they themselves can possess.

Political divisions will always exist. It is inseparable from the nature of a community. And it is not in the nature of things that the power can be long on one side. *The duration depends upon the judgment of using it.* The people will revolt from themselves when they find they have done wrong, and that side which was now the weakest will become the strongest.

Accounts were received, and Teague himself occasionally announced that he had succeeded in taking up subscriptions for his commentaries. But it had never occurred to any one that the bog-trotter could

neither read nor write. But the difficulty now presenting itself, a school-master offered his services to be his amanuensis.

But amongst the advertisements on the tavern and shop doors, the Captain observing one day a notice of the want of a suitable person in the academy to instruct in the French language, he was led to reflect, that after dictating his publication, Teague would be out of employment, and that a vacancy of this kind might tally with his faculties, having been in France, the very country where the language was vernacularly spoken; that his attainments must be much superior to those who had acquired the tongue only from dead books, the ear not accustomed to the sounds of familiar conversation.

Losing no time he waited on the Principal of the Academy, and gave him an account of the pedeseque, and of his pretensions.

The Principal was astonished; but concealed his surprize. He could easily comprehend the incompetency of this man to teach the language in a school of learning, where it is expected to be taught grammatically; and the absurdity of taking his lingo, for French, if he had the brogue in that pronunciation as he had in English. But it might not be so easy a matter to convince the Captain of this who appeared to have an undue opinion of his acquirements. Nevertheless he endeavoured to make himself intelligible on this subject, by observing that there was a wide difference between a public professor in a college, and a private tutor who attends pupils occasionally: that in a seminary of learning the rudiments of a language were usually taught by rules; and it was an object to understand the parts of speech into which the tongue was divided; the use of the articles, if there were any; the inflexions of the cases, the vari-

ations of the genders, the conjugations of the verbs; the concords of syntax; and after all this the idiom, or peculiar phrases, and structure of the sentence: that from what the Captain had informed him, and what he himself had gleaned from others, of the characteristics of this subordinate, the academy was not his province, but the village. He might employ his talents to advantage, instructing young gentlemen and ladies in the knowledge of the French tongue, at their own houses; with a grammar, and without a dictionary; or without a grammar; and with the voice and diction only. For in fact it was of little consequence how they were taught; for they would learn nothing: and barbers and tumblers that had come in and undertaken to instruct; had done as well as wiser masters; for they had amused their pupils; and amusement was all that pupils would be willing to receive. Enough if they can get a word or two that sounds like French, to throw out to a lady in a dance; as parlez vous madame; or s'l vous plais.

It may be a digression, said the Captain; but it is a profitable lesson. Do you conceive that the American youth are too hastily manufactured, and come forward too soon into life.

Unquestionably, said the Principal. Education here is unnaturally hastened. Our minority is too short to make a great man. We "overstep the modesty of nature," and suffer our young men to come forward into councils that require the heads of age. Hence our juvenile speeches in debates. Hence the wild fire in our councils. The young gentlemen of the village are above learning; as soon as they have got on a pair of pantaloons, and half boots. They are out of their education, and *men before their time* We had an election the other day; for a chief burgess. It was a matter of astonishment to those of the old

school, to see a youth come forward, born after his competitor had been ranked with the sages of the village, and claim the suffrages of the citizens. It had an unfavourable effect upon the very dumb creation. It was not enough that the lads under age, began to raise their voices, and vociferate; but it seemed that the young of animals had gained upon their growth, and were old before they had attained maturity. The young dogs barked more; whether it was from an impression of the atmosphere; or an imitation of the sounds of men.

CHAPTER VI.

TO give the bog-trotter time to write his history, the Captain turned his attention for a while to other objects. There was an old lawyer in the village that had left off practice, and accompanied by a blind fidler, gave lectures occasionally, at what he called his inns of court, on the practice of the law, of which he pretended to have had great experience; and in fact he had been a long time at the bar; and from age was now unfit for the circuit, especially being blind, and unless in a carriage, which the roads did not well admit, could not conveniently go abroad; and the small practice of the village, scarcely sufficed for the occupation of his time, or the means of his support. The want of sight rendered him incapable of conveyancing, and all he could do was to give council, or argue a cause by which he made a penny; but to fill up his time, and put his learning to account, he had set on foot lectures for young students, and amused himself at intervals with a tune on the violin which the fidler played, and for which the by standers threw in a five-penny bit of silver, such of them as did not attend to the law lecture, or could derive any benefit from it. Thus, clubbing their talents, and joining in amusement, and in business as

joined in the loss of vision, they made a living; the scraper receiving his six cents and a half for his tune on the instrument, and the lawyer the same money for his breath on the abstract subject of the study and practice of the law.

It may be asked how it came to pass, that he could lay down the principles of a successful practice in a profession, and at the same time not to have become enriched by it himself, so as to be above the necessity in his old age, of making money, by the best means in his power to procure his support, the profession being lucrative itself, especially where any one excels in the knowledge of it, and is ordinarily industrious in the pursuit. But the answer is easy; that the making money and keeping it are two distinct things: for so it was, that this lawyer now blind, had let a great deal of business go through his hands, without making much by it; from a want of skill to make money stick. He thought always more of gaining the suit and the praise of managing it well, than of the fee. Hence it was that he had credit as a pleader, but not as the maker of a great estate.

It is doubtless a general rule that the way to be rich is to excel in your profession, and whoever excels may in general be rich, and it is a folly not to make this use of it. But we see that with all the lovers of the arts, painting, music, statuary, eloquence, there is a neglect of riches, the mind carried off from the love of money, and placed upon the art itself. The main chance is overlooked; and it is only late in life that the folly is discovered by the person himself, though others had been remarking it all his life long. But though not profitable to the professor, to cultivate an art for its own sake, yet it is useful and pleasing to the world; and Quintilian who has left us a book on the eloquence of the bar, is more valued, be-

cause he has given more pleasure to those who have come after him, than others who had made perhaps more by their practice, but whose memory has gone with themselves, at the same time that their estates went to others.

As a sample of the lectures of the blind lawyer, we shall give the following.

THE LECTURE.

IT is necessary to comprehend perfectly the facts of the case, and this to enable ;

1. To frame the action ; trespass, or trespass on the case ; &c.

2. To frame your declaration : that is, to put a precise statement of the cause of action upon the record.

3. To examine the witnesses, preparatory to the trial.

I say nothing of the science necessary to draw a declaration ; though there is great delicacy and beauty, in making a legal statement of your cause of action with brevity, perspicuity, and technical correctness. Nor do I mean to touch on the vigilance on your part or liberality, to your adversaries, in conducting the cause to issue and trial, taking rules and giving notice. This is not the stage where all advantages are fair. These are preliminaries to the contest, and as in the wager of battle the combatant makes oath, that he uses no enchantment ; so a liberal lawyer will disdain to avail himself of an oversight, or take a catch which has no effect upon the merits of a cause. If he observes a defect which it becomes necessary to amend, in civil cases, he will point it out and give leave to do it. This I grant he is not bound to do ; but it is for the credit of the profession that such liberality should be cultivated, and justice will lose nothing by

it. Strict rules of pleading, strictly pursued, are not inconsistent with this liberality! Professional men, can understand the boundaries and distinctions. It is not within my present compass to go into them.

Preparatory to the trial; a great point is, the examination of the witnesses to be adduced by your client; such of them as are willing to say what they know, prior to their being called in court. It is of moment for you to know what you can prove by any one of them, that you may bring them to the point immediately; and save the time of the court from impertinent relation. It is necessary for the sake of your client to sift them well, and know the testimony they are about to give. The council above who has thus sifted them, should undertake to examine. When the conduct of the cause, rests with me, and the responsibility, I would suffer no assistant to ask a question of my witnesses. Let him take his turn, and fill up his part in cross examining the witnesses of the adversary. When the testimony is closed in a jury trial, the cause is usually lost or won: and a single question injudiciously put, may have been the cause of losing it. Yet there is nothing more difficult for a leading council than to restrain the impetuosity of his associates, and their avidity to ask questions.

It is a matter of great judgment when a witness has answered well, to let the answer rest. It is favourable to truth to let it rest; for by putting it again, and again, you confuse the mind, and you may get the very reverse of what he had before said; or at least you may get it so disturbed, as to be unintelligible, and do you no good.

If it occurs to an assistant council who has not previously examined; that a question may be put with advantage, he can suggest it to the leading, or examining council, and leave him to judge. The wish of

seeming to be doing something for his money is the cause of that propensity to interrogate that prompts improperly to take up the examination.

The taking down the testimony is so managed as to consume time unnecessarily in our courts. All concerned in a cause, must take down and wait for all. The testimony must be taken down as if it was to be read again to the court, or sent to the jury in the style of a written deposition. Unnecessary matter is taken down; for there are seldom more than a few sentences in the testimony of a witness that are material to the cause. But it is to seem very busy, and doing something for the client, where in fact nothing is done that leads to an ostentation of taking down, even where there is nothing to take. I have actually known this to take place at the bar.

Well; what do you know of this matter?

Why, in fact, I know little about it.

Stop, stop a little, let me take that down.

Well; you say you know little about the matter.

Nothing at all—only—

Stop, stop, let me take down what you have said—

A thing like this exhausts the patience; yet it is difficult for a court to correct it. It must depend upon the good sense of the council themselves, to select, and confine their notes to what is of substance in the evidence.

The greatest effort in the management of a cause, is the taking exception to evidence. For this purpose, it is necessary that from the commencement of the trial, the leading council lies by; thinks much; says little; bends his whole mind, to preserve himself unruffled: sets forward the junior, and assistant council to spar where it may be necessary; to make prolusions, and gain time.

As for instance; a piece of evidence is offered. It strikes the leading council, that exception lies against it. But he is not clear; nor is he prepared to support the exception. An assistant council takes the exception. It is run down and completely answered. Not a word more: but the leading council has had time to consider.

If he had not thought proper to give it up; he would have risen in full force.

And if he had been answered with some shew of reason, the assistant would have rejoined, and done justice to the argument. For let it not be thought that though I mark the parts of the assistant council, I do not well know that the greater lawyer, may have the subordinate part assigned him; or may fall into that place, in the management of a cause, on the trial. The greater general may happen to have the command of a detachment only; or be employed to bring on, or relieve, in the course of an engagement.

For law is an image of war; and as in war, the greatest praise, is to discharge your duty wherever it may be assigned; so, on a trial. A column standing still, and never brought forward, or discharging a shot, but simply keeping ground, may have done the real execution, and gained the battle. A thought suggested is sometimes more than an argument.

But, nevertheless, elocution has its place, and noble praise. It is delightful to hear one speak well where he ought to speak. "The words of the wise are like nails; fastened in sure places." Great indulgence must be made, for young pleaders; but I have it not in view to treat, not of what is to be indulged; but of what is to be approved. Brevity is the soul of eloquence, and amplification, the usual fault. Few err in saying too little. Tediousness is the more common extreme: padding, and beating on the point.

After a passion is excited, there is danger of "tearing it to rags."

The opening of the case, before the evidence is introduced, is a matter of some delicacy; and a principle is brevity; and stating the proper proof, rather below what it will turn out. When disappointed in the expectation raised, the mind is dissatisfied, and with difficulty can do justice to what is proved. It is in the application of the evidence that eloquence finds her province at the bar. And yet here it is that less harm can be done by weak or unskilful advocates, than in any part of the contest. The court and jury are attached to the evidence. The mind is stedfast upon this, and if a flourisher runs off; he may talk; it is only a loss of time. It is here that less experienced council may be suffered to amuse themselves; and can do little harm, more especially if there is some one to follow to review the facts, apply the law, and clench the argument. The harm that can be done, is to weary the mind, and relax the spring of attention. This is mischievous; but cannot well be prevented. The council must be heard. But there is much less danger to a cause, in this, than from an injudicious touch in the conduct of it, through the evidence.

With regard to reading authorities in the opening, or reply; or in the conduct of the trial generally, I have but a single observation. It is better to adduce no authority, at all, than one which has a doubtful application, because it brings in question the discernment of the council; and gives an opportunity to the adversary, to flourish and run down General reason, is a safer ground, than doubtful decisions.

CHAPTER VII.

A great uproar had, in the mean time taken place in the village. The doctrine of abating nuisances, had been much in conversation, since the town meeting in the matter of the pole-cat. It came so far, that an incendiary proposed to abate, or burn down the college. Because, said he; all learning is a nuisance.

A town meeting had been called on the occasion; and whether from a wish to see a bon-fire; or from the hatred of the ignorant, to all that places the informed above them; the proposition however unreasonable and illegal had its advocates. It had been actually carried, and a person was now on his way with a brand lighted to set fire to the building.

The alarm was given; and the more considerate rushed out to endeavour to prevent conflagration.

Force was vain; and reason avails little with a mob The only way to oppose their resolution is indirectly by turning the current of their thoughts aside and to the attaining the same thing in another way. The principal and professors had harangued in vain. It was threatened that if they did not stand out of the way, they would burn them, with the college.

The Captain had come up; and venturing to speak; gentlemen, said he, it is not for the college that I am about to speak; it is for yourselves; your object is to put down learning; and do you not know that it is put down already. Why will you do a useless thing? It is calling in question your understanding, to do a needless mischief.

Is not learning put down already? the methodists are the best preachers. Take a horse jockey and in two weeks from the jump, he is in a pulpit. No need of Latin, Greek, Hebrew; a pollyglot bible; systems of divinity; a commentary, a treatise, an essay, or a dissertation: all is plain sailing now.

All this tends to put learning down, so that you have all the advantage of this, without the trouble. Why burn the college?

The building will serve useful purposes, when the professors are driven out of it.

Politicians say, that though they have no learning, they feel no want of it. Is it to be supposed that a workman does not know whether he wants tools? All this ends when learning and law are put down. Trial by battle must regulate society. We shall then want barracks and hospitals. This building will accommodate invalids.

I do not know, said a sedate man among the crowd, whether after all, a little learning may not be in some cases, useful. *It is a great help to weak people.* I have seen a book, entitled, *Hukes, and e'en to had up crippled Christians breeks.* That is hooks and eyes to hold up breeches. Alluding, by the bye, to hooks and eyes which were in use before buttons. What are called gallowses, have succeeded to the assistance of buttons, but have not altogether superseded them. Not that I mean to insinuate that the disuse of hooks and eyes, lead to the gallows in the proper sense of

the word, any more than that learning does. Though many a man that wears buttons has been hung. Perhaps more without buttons than with them. But I mean to say that a young man, before he comes to the years of discretion may as well be employed in learning to make marks upon paper, as playing at nine-mens-morrice, and it does him no more harm to try to read Greek, than to trace partridge tracks. The mind must be employed in something to keep it out of harm's way, and reclusion in a seminary is useful, if for nothing else at least to keep young people within doors, which the academician could not easily do, unless, the device of books was used to beguile the hours of study. And though a great part of their learning, is but the knowledge of *hooks* and *crooks*, yet the exercise of the *mind renders them more expert in thinking;* and though Latin is of no more use to raise the devil than English, now a days; yet it is a gentle exercise to learn it, and makes the boys grow faster. It keeps them from their mothers who are apt to spoil their offspring by too much indulgence. The idea of getting a task, accustoms the mind to obedience. Now there are some branches of science that are really useful, such as speaking and writing intelligibly, and casting up accounts. Nor is the time altogether thrown away in learning mathematics, especially the theory of the mechanical powers. Some are of opinion that this study has been of great use in navigation, and water works. The ancients found their account in it, in the construction of the Catapult. But, at least, what harm, in letting pedants chop logic, and boys laugh, in the seminaries? A herring pickle, or a Merry Andrew, is allowed to amuse people, and we do not pull down their stalls. A ventriloquist is suffered to take his dollar from us, and we make no remonstrance. Lec-

tures, on moral philosophy are at least as innocent as this. I do not know any better recreation for a lad of mettle than to listen to a dissertation on eloquence, or a discourse on chronology, and history. It sharpens his wit to talk over affairs with his equals. But there is one reason that serves for a hundred. It is not every one that is born a genius, and can do without the help of education. I am therefore for continuing these crudities a little longer. When we can afford it better, we can pull down the college. This speech had a good effect, and the mob retired.

But before they were aware, the flame had broken out in another direction. The mob retiring, had entered into altercation amongst themselves, and began to blame one another. Some, for not going on to burn the college, and others, for having thought of it at all. In opposition to the last, the first grew outrageous, and began to exclaim, and to curse and to swear, and said, damn them, but if they had not burned a college, they would burn or pull down, a church. They had actually prepared faggots, and were on their way a second time, to execute a new mischief.

The alarm was given, the chief burgess, and assistants, and respectable inhabitants assembled! Great reliance was had upon the Captain, from his success, in the former instance; and when the two forces, that of the mob, and that of the community stood face to face, and were in opposition, ready to fall on, the one to commit waste, and the other to defend, he was called upon to come forward and harangue.

He obeyed instantly, but was well aware that a stratagem in war cannot succeed a second time, and therefore instead of attempting to decoy and turn aside their passions, thought proper to attack them directly by the opposite, fear. Madmen, said he, what do you mean? Is it to rob, plunder and murder that you

have assembled? Come on; but in coming you must meet with this weapon, brandishing his hanger; I am alone; but a legion is behind me and will be with me speedily.

But as I am at all times averse from the use of force until it becomes necessary; I am willing in the mean time to hear reason. Why is it that you would pull down a church, and abolish the christian worship in the village?

It is not our intention to abolish christianity, said a grave man amongst them, but to put down the preacher at this place; who is not an American republican, but quotes the English commentators in his sermons, Henry's annotations on the Bible; Burket on the New-Testament; Pool's Synopsis, Tillotson and Baxter, and many others. We wish to abolish these, and have nothing but our own commentaries. Are we to be drawing our proofs from under a monarchy, and refering to tracts and essays published in Great Britain? Have we no sense of our own to explain texts of Scripture, and apply doctrines? It is time to emancipate ourselves from these shackles, and every man be his own expounder, or at least confine our clergy to the Bible and the Psalm book, or such of our divines, as have written amongst ourselves, and are of our own manufacture in a republican government.

Religion, said the Captain, is of no government. Wines are the better for being brought over seas, and our best brandies are from monarchies. Where was the cloth of that coat made? Will you reject a good piece of stuff because it came through the hands of an aristocratic weaver? These are false ideas of what is right, and useful to mankind. The common law is not the worse for having been the common law of England, and our property and birth right which our

ancestors brought with them; nor is our Bible the worse for having been translated under James the first of England, which translation we still use, and from which we repeat all sentences of Scripture. Nor are systems of theology, or harmonies of the evangelists the worse for having been written in another country. Why do we use the English language? Is it not because we cannot easily substitute another; or have no better to substitute. The Shanese, or Delaware, or Piankisha, may be softer, but not so copious or of equal energy and strength. But even if in all respects superior, can we by an act of volition, transfer it into common use and make it all at once, our vernacular tongue?

The grave man made no answer; but the more violent were still disposed to pull down the church.

At the alarm created by the uproar, the pedagogue, and the pedeseque, who had in the mean time been engaged in composing the book, had run out, and left the manuscript in hands, on the table. A wag stepping in, had written an addition to a chapter. And coming back, the school-master had resumed his labour, without observing it. The chapter in hands was that which gave an account of his ascent in a balloon; and the addition was as follows:

——"Passing a cloud, I put out my hand, and took a piece of it, and squeezed it like a spunge, and the water ran out. The sun went north about; but never set. At the distance of about fifty leagues above the earth, we saw a white bird sitting on the corner of a cloud. We took it to be one of Mahomets pige-

ons. If we had had a gun we could have shot it. Passing by the moon we saw a man selling lands at auction. He wished us to give a bid; but we told him, we had not come to buy land in the moon. We came across a comet, but it was asleep. It looked like a tarapine; but had a tail like a fox.

The balloon struck a wasp's nest, and we were in danger of the stings.

Coming near a hail bank, we filled a hat: the hail stones were about as large as a pigeon's egg.

A thousand miles above the earth we passed through a field of turkey buzzards. This would seem to be their region; and accounts for the circumstance, that no one has ever found a nest of one of these. Their rookeries are out of sight, in the atmosphere.

As we approached one of the heavenly bodies—It appeared like an island. We struck upon a planet, but Blanchard got out and pushed off the balloon. We supposed it to be Mercury, as we heard orators haranguing, and a multitude of tongues.

There were marriages going on in Venus, and in Mars, we heard the drums beat.

In Jupiter we heard swearing, Proh! Jupiter; O! Jupiter! by Jupiter.

We meant to have a pull at one of Saturn's rings, but were blown off the coast, and found ourselves in the latitude of Herschell. Provisions failing, we thought proper to shape our course to the earth again.

The first thing we saw was the forest of Ardennes, which appeared like a shamrock; the Pyrenean mountains seemed a bed of parsley, and the Atlantic Ocean, was about as large as Loch Swilly.

Within about a furlong of the earth, Blanchard gave me the parachute, and I came down. It was in a field of corn among reapers. They took me for a

sheep, and thought to have mutton; but finding their mistake, they invited me to breakfast.

TEAGUE with his amanuensis returning, resumed his memoir, not observing the interlopation which, in the mean time had been made. Some have thought it was the best chapter in it. At least it is the most extravagant.

CHAPTER VIII.

HAVING now a little time upon his hands, the Captain thought of repeating his visit to the blind lawyer, and fidler; and happening at an interval of the blind man's lectures he drew him into conversation, on the subject of the law. What is this common law, said he, which you speak of, and why cannot it be abolished? The common law of England! why not a common law of our own; now that we are an independent government?

It is our own common law, said the lawyer. We derive it from a common source with the inhabitants of Britain. Shall the people on that side the water alone possess this jurisprudence, which our common ancestors possessed, just because we have left the island? It was because our birth-right to this law was questioned that we resisted in war, and declared our independence. The right to representation is a principle of the common law, and this right was denied to the colonies. The right of trial by jury is a principle of the common law, and this in some cases, was abridged, in others, taken away altogether. On what ground were these defended; on the ground that they were our inheritance by the common law.

But why called common law? It was so called as distinguished from the laws of particular places. It was a system common to the whole people. The term came into use after the heptarchy.

A ground of this law is reason; or the principles of universal justice. The application of these principles to particular cases, forms a great part of the common law: the application of the principles of justice to that infinity of cases, which arise on the intercourse of men in a state of society: obligations independent of contract, or contracts themselves. We read the decisions in such cases, because the reason of those who have gone before, is a help to those that follow.

Rules of pleading, rules of evidence, the practice of courts, are the result of experience, and our own; or adopted by us, as a part of the common law. This law forms a system begun in the woods of Germany; taking its rise amongst our Saxon ancestors, it was brought with them into Britain; receiving accessions from what it found good in the island to which it came.

Abolish the common law? why not abolish the art of medicine, because it has been cultivated in Great Britain? Sydenham, Harvey and Mead, are thought to have added to the science. The British chymists, have increased the materia medica. Why not make war upon the apothecaries, because they sell English drugs?

Just at that instant a hurly burly was heard half a square distant; people rushing into an apothecary shop, and jugs thrown out at the window. It was a mob collected to break up the Doctor.

A Latin master from the college, lifting up his hands in the attitude of a man attempting to ring a bell, was endeavouring to appease the multitude, in such address as was on his tongue from the classic authors: cives, cives, quis furor vos agitat! vesania quæ versat! quæ dementia cepit! Infelix pecus! oh! heu! proh hominum. Insanire decet, ratione, modoque.

It availed nothing. The outrage was continued. Glass and earthen ware, broken; powders and liquids filled the atmosphere with vapour, and a variety of smells. Ah! said an orator, it is full time to return to the simplicity of early times, when men had recourse, in case of internal diseases, or external wounds, to the barks of trees, or the plants of the fields, and had not yet become acquainted with extractions and decoctions put in phials, and called drops, to make the well sick, and poison the living.

It would have made a good drawing in a picture, to have seen the apothecary at work, in the mean time, endeavouring to clear the shop, with a cudgel, sometimes pelting a rioter; at other times breaking the head of one of his own jugs.

A preacher stood by exhorting to carry on the work. He had taken a text. "There is a time to build, and a time to pull down." He thought this a pulling down time. The greater part of his audience appeared to think him orthodox, and were shewing their faith, by their works, at the expence of the dispensary. Good God, called out the son of Esculapius, will no one assist? shall I be ruined? The industry of years dissipated in a day: all my laud-

anum, my pepper-mint, sulphur, vitriol, oils, acids, my tartar, and arsenic ; all gone to pot, or rather the pots gone with them, jars, jugs, and glister-pipes : what devastation ! what havock ! Is it for sport, or for profit ? Oh ; the folly, the fury, the madness of the populace ! They are indeed the swinish multitude. A herd of swine in a century, would not have done so much damage.

At this point of the game, whether by design, or accident, a cry of fire had been raised ; and the fire company with their engine and buckets were up, and began to play upon the building, throwing the water in at the windows, and at the door, so that the people in the house, and the Doctor himself were as wet as rats, and occasionally the pipe carried round with a sweep, came upon the by-standers without. The preacher got his Bible wet, and his Psalm book ; and the Latin master called out " Jam satis terris ;" or that there was rain enough ; and the orator, thought it a new way, of quelling mobs. The Captain said he had seen something of the kind attempted in repressing bees, when they swarmed, throwing water on them, and that the riots of men were analogous.

But what can they mean, said a peace officer by attacking this mans boluses ? Do they mean to put an end to the practice of physic ? among the savages they attribute aches, and pains in the flesh and bones, to a bad spirit that has got into the muscles, and the tendons, and by rubbing with the hand, and pressing the parts they endeavour to expel it. The chaffing has sometimes a good effect, and if there should not

be an evil spirit to drive out, it eases and relieves from the complaint. But though exercise and temperance may preserve health, and cold and warm bathing, and friction of the joints may relieve from a rheumatic pain, yet in a multitude of cases the specifics of pharmacy may be found useful; especially in a society of close population, where we have not woods and forest to run in, and where sedentary occupations keep people sitting half their time. And though after all, the diagnosis, or distinguishing diseases, is in many cases, but a guess, and the means of cure still more conjectural, yet still there is something in the province of science, and the skill of the well read and experienced physician.

Why then do you not put the law in force against such an attack upon the druggist, said an orator? You see his chest of medicine broken open, before your eyes, and his shelves pulled down, and the tables under foot, and yet no one bound over, or the riot act read.

Soft and fairly said the peace officers, all in good time.

Take sail from the mast when there comes too strong a blast. A madness prevails at present. It willbe but of a fortnights continuance. When the people get a thing into their heads, the best way is to let them go on. They will come to themselves by and by.

But in the mean time they will do a great deal of harm, said the Captain.

It is in the atmosphere said the orator! is it imported, or of domestic origin, said a thinking man among the croud.

It may be imported, or it may be of domestic origin said a simple man; for both abroad and at home, we

have instances of such madness occasionally breaking out, owing to some subtil gas in the holds of vessels, or that breeds in our own streets. It may come from France or Ireland: but what is there to hinder it springing up here, where there are as good materials to work upon, as on the other side the water. Human nature is the same every where.

CHAPTER IX.

THE memoir of the bog-trotter had now made its appearance, and was read with avidity by all ranks, and classes of the community. The novelty of the matter made the stile agreeable and it was called up as a model of fine writing. In fact the school master who was the real author, Teague furnishing only materials, had some knowledge of the English grammar, and had read the Pilgrims Progress, the Seven Champions of Christendom, Reynard the Fox, the Siege of Troy, and had a diction not unpleasing, and tolerably correct.

The place of a professor of rhetoric in the college, being vacant, it was suggested that the new author might be an acquisition to give lectures on eloquence, and Teague was, as usual, elated, with the proposition, and solicited the Captain to countenance the matter, with the trustees of the seminary, that, if he had failed in the political, he might have a chance of elevation in the literary world. The Captain accordingly lent his aid, and though, with some reluctance, undertook to press the matter with the friends of the institution, still doubting in his own mind the capacity of the candidate for a chair in a university. It is true, he had heard tell of lectures on taste and criti-

cism, by those, who had not much taste, and were no great critics themselves. But this was considered as abuse, and not to pass into precedent. However, he consented and did broach the matter. It was likely to be carried and would have been carried, but for the other professors, who said it would be a burlesque on them, and threatened to resign if the thing was pushed any farther, as in their opinion, however great the fame of this phenomenon might be, he was in fact, but an illiterate person, and fitter for a professor of gymnastics, than of letters in an academy.

A professor of gymnastics, then let him be, said the Captain. It is true he has not read Salzman on the athletics of schools, or Strutt on the games and pastimes of England; nevertheless he can play, at prison best, barley-bret; blind-mans-buff; the hindmost of three, and fool in the corner. He is no slouch at swere-arse; is a pretty good hitch at a wrestle; and can run and leap abundantly well.

So saying, he turned about, and walked away, with his stick in his hand, to look for the bog-trotter, and to bring him forward for the professorship; but had not walked far, before he fell in with the remains of the Doctor's shop that had been thrown out upon the street; and where was Teague in a stall turned doctor, and selling drugs to the multitude, arsenic for worm-powder, and laudanum for wine-cordial. He had picked up the phials when the apothecary had run off fearing the multitude, and the people thinking this man his deputy, or substitute, selling off at a low price, were willing to take a bargain while they could get it.

The Captain was irritated on the score of humanity, and for the first time, made a stroke at the bog-trotter. The cudgel lighting on a box of Spanish flies that was going off at twelve and a half cents, dis-

sipated the contents. A dialogue ensued, and much expostulation. But the result was, that the vendue was broken up, and it came to be understood, that Teague was not the real owner of the ware-house, and that the purchasers might be called upon to pay for the drugs a second time. This last consideration had an effect and the bidding ceased.

At this time John Murdoch came up, a shrewd man, though not in any office, and being well acquainted with the Captain, and the history of the bog-trotter, made free to speak upon the occasion, and addressing himself to the Captain; for the bog-trotter had run off, whether fearing the stick, or to spend the money he had gathered. Captain, said he, Nemo omnibus horis sapit; no man is wise at all times. You have been a long time seeking to get your man into place, and now that he had got into place without you; for accident often does more for a man than his best friends; you have been unwilling that he should stay in it. Nay, you have driven him from it. He had just got into a good way in an honourable and lucrative profession, and you have stopt his career with your batabuy, or shalelah, a weapon which, from his infancy he had been taught to dread. Do you think the greater part of doctors are better read than he was; or even if better read, does their reading turn to more account? Will the people employ them sooner, because they are learned in their profession? Or, even if learned, is their skill the more to be depended on? One of the faculty has said; ars nostra conjecturalis est. Hoffman ran down Boer-

haave; Cullen, Hoffman; Brown, Cullen; and the system now among the physicians, is a hotch potch, or mixture of all. O'Regan might have been a quack; but the faculty tell us that medicine is much indebted to quacks. Mercury was brought into use by them, and it is now the panacea, the specific for all diseases, *the consumption itself.* Gravity is the most practical qualification. Could not Teague assume a grave appearance; a sober physiognomy, a measured step, with a cane in his hand; a steady look straight before; a nod to those that pass by, as if from a thinking man? Could not he feel a pulse, and speak mysteriously, if he could not speak learnedly, not having given clinical lectures, or attended them? Or could he not hold his tongue a long time, and say nothing; which would answer the purpose just as well; for silence is obscurity, and obscurity is sublimity. When the patient is dead, it was the disease killed him, not the doctor. Dead men tell no tales. Facilis descensus averni. I have heard the blind lawyer discoursing to this effect, that in the profession of the law, which is an ostensible profession, and more likely to expose a man's parts, or faculties of mind than almost any other, yet it is not always understood who is the real lawyer; and a man may have made an estate at the bar, before it is found out *that he is a fool.* If he loses the cause by his mismanagement, he lays it on the jury: or if the court decide on a point of law contrary to the advice he had given, what can I help it, says he, *if a commission cannot give sense.* It is the law of the books, though it is not the law of their heads. The client submits, and is better pleased with his counsel, than with an honest fellow who had told him in the first instance; or would tell him in the last, that his cause was none of the best; and the verdict, or judgment right. If

this is the case in a profession, that, in comparison of the other, is visible, and tangible; that you can reach it in its exhibition, what must it be in an art which is less in view; where the ignorance of the practitioner is capable of more concealment; and the man dies who is most hurt, and carries his complaint before Minos, and Rhadamanthus, who wait *until the doctor comes* to give him a fair hearing?

It is not that I had any doubt, said the Captain, of his getting into practice, that I had been opposed to his empiricism. My apprehension rather was, that he would get too much practice, and have too many lives to answer for morally and in conscience, if not legally. For what did he know of drugs, or of their effect upon the constitution? If you go to conscience and morality with it, I have done, said Mr. Murdoch. You leave no reasoning for me. I was speaking as a man of the world, and the making a living: if you feel yourself entramelled with that sort of doctrine, you are on the other side the line: I have no concern with you: You belong to the old school.

The doctor, in the mean time had come back, and was examining the depredations.

An inventory was taken under the direction of the Captain that what remained might be compared with the original stock, and the loss ascertained, that it might be compensated to the poor man by subscription. As to what had been purloined by Teague in the way of sale, he undertook himself to make up that, having been somewhat accessary to it by introducing the bog-trotter to the village.

CHAPTER X.

FROM what has been stated of the activity of mind among the inhabitants of this village, and especially from the samples that have been given of their attention to politics it will not be a subject of wonder, that there was a village coffee-house, on a small scale in this place, and that the people sometimes met here, to smoke a pipe, and take a glass of beer and read a news paper. It might be called a beer house, if what was drank in it gave the name; for more ale was drank than coffee; but, in imitation of the larger towns it was called a coffee house It happened that the Captain wishing to learn the news of the coffee-house, took a walk there.

Teague, with what he had collected from the sale of the drugs, had been here before them; and taking on himself the air of a politician, had called for pipes and tobacco, and was looking over a gazette; not that he could read; but to induce people to believe that he read; occasionally also, as if unconscious of those around him, throwing out a sentence, in French; a little of which he had acquired as a parrot would language: such phrases, as save qui peut: tam pis pour lui; a la guillotine. Nor did he neglect the shrug of the shoulders, a habit of expressing the

emotions of the mind, which remained still in some degree among the republicans, though it had been contracted under the monarchy, when people were afraid to speak out, and raised the back, when they did not dare to lift the voice ; and dumb signs served instead of a viva voce declaration. This suited the bog-trotter and enabled him to conceal his ignorance. Not that he had the prudence to intend this ; but imitating what he had seen abroad, he took up the character at home.

The attention of the benches was attracted by his physiognomy, and attitude ; and in the opinion of some, he was taken for a French minister or consul ; by others for an emigrant of distinction that had lost his property, for the sake of his title of nobility.

The Captain hearing these surmises, impelled by the natural candour of his mind, could not avoid explaining. It is neither French minister, nor consul, said he ; but my bog-trotter, that I had detected some time ago, selling drugs, and passing himself for a physician. He might be qualified to be a horse doctor, but certainly not to practice on the human constitution. But what particularly excited indignation, was his purloining the medicines, taking and carrying away, what did not belong to him, and was aggravated by the circumstance, of the things being thrown into the open air, by the rioters who had broken the house, and dispersed the shop, to the great injury of the poor apothecary whose property they were. I had taken it on myself to chastise him, considering myself under obligation to restrain him, having been accessary to his coming to the village. And if you will give me leave gentlemen, and excuse the time and place, I will take the liberty to deal a few blows at this instant, as he cannot conveniently escape from the boxes before my stroke overtakes him.

Not giving time for reflection, or reply on the part of those present, he raised his baton, and was about to strike; Teague on the other hand, had up his heart of oak, also, if not to offend, at least, to defend, and parry the stroke; his countenance in the mean time arguing submission: his words also, whether from fear, or respect, softening and conciliatory. God love your soul, said he, and be aisy; and not be after beating me before dese paple dat know nothing o' de matter; that will take you for an ould fool, beating and fighting for nothing: Just for making a copper out o' de offals of a farrier, selling dem to de paple when de mountebank himself ran off. It is a good job to be making a penny in hard times. If your honour will give me lave, I will introduce your honour, to dese paple dat have taken me for a French minister. I tought I had looked more like a papish Praist. But as dey know best, it is all de same to me. I will drink your honour's health in a tankard of ail if your honour will plase to call for it. Dese shivil looking strangers, dat I never saw before, will like your honour better than kicking and cuffing wid your shalelah and putting yourself in a passion wid a bog-trotter, dat never meant you any harm.

The address seemed reasonable; and those present interfering, the Captain consented to let him off, advising more honesty and fair dealing for the future But, in his apology to the company, for what might seem an impropriety in behaviour, he was led to give the history of the Hibernian, and the circumstance of his being in France, which accounted for his affecting the French manner, and occasional attempts at the language. This in the mean time led to a general conversation on the affairs of France, and the history of the revolution. Observations were made

above the ordinary stile of beer-house conversation; and of which, though expressed in a desultory manner, as each one took the pipe from his mouth, or listened to the suggestions of others, it may be worth while to give a sample.

One of these who had a considerable fluency of tongue, and ready memory, observed, "That the loss of liberty in the course of that revolution was owing to the unskilfulness of those who conducted it."

But in like situations, said another, is it reasonable to expect more skill? The mass of the people conducted the revolution, and is it in the nature of things, for them to stop at a proper point?

It is in the nature of things, said another; but it is a *rare felicity*. It is natural to distrust him who proposes to stop short of what seems a complete reform. The sovereign people is as liable to the impulse of passion, and as open to the insinuations of flatterers as an individual tyrant. The courtier devoid of principle, in the democratic hall, gets the ear of the populace, as he would that of a Prince, and abuses it.

I do not know well what a man can better do, said another, than just to fall in with the current of opinion and when it changes, change with it. We are right, say the people. You are right, says the man of prudence. We were wrong, say the people. You were wrong, says the same man. Who is ever displeased with a person that has been in the same error with himself?

That is true said the Captain: but is there no such thing as public spirit? Is there not a spice of virtue to be found in a republic? Who would not devote himself for the public good? Were Phocion, and Philopoemen time servers? I grant that it is not the way ultimately to make friends of them, and to have their confidence. Let school boys propose to rob a

hen-roost, they will respect him who dissuaded, though it was not popular, but incurred the imputation of cowardice, and a want of spirit, at the time. Let them rob a garden, and be brought to punishment, they will revere him who had told them it was wrong but was hurried along with them, and suffered by their fault. It is by these means that amongst savages, strong minds obtain the ascendancy and are trusted by the nation. Great is the force of truth, and it will prevail. It requires great courage to bear testimony against an error in the judgment of the multitude; as it is attended with present disreputation. Yet courage is virtue, and is its own reward.

The great mischief of democracy is party, said an orator, who had taken the pipe from his teeth.

It is the great advantage of it, said his neighbour, It is the angel that descends at a certain season and troubles the pool of Bethsaida, that the lame person may be made whole. Were it not for party, all things would go one way; the commonwealth would stagnate.

But let one party obtain the ascendancy, and does it not come to the same thing. All things will go one way then; or rather stand still.

Not so, said the captain; no party can maintain power long. The ascendancy carries its overthrow along with it. The duration depends upon the judgment of the leaders of the councils. But the leaders, will find that they cannot lead always. While they were struggling up the ascent, every one was willing to be helped, and took advice. But on the top of the precipice, scampver and hoop, and there is no restraining them. A leader of judgment, will always find it more difficult to manage his own people than to combat his adversaries. They cannot be brought to halt

at a proper point ; and their errors bring them down again, as those in power did before them.

However, this is wandering from the point, said a man in a black wig ; we were talking of the French; who says that Bonaparte did not usurp the government ?

I am of that opinion, said the Captain ; for there was no government to usurp. He put down the directory, who had themselves put down the councils. The banishment to Cayenne, is a proof of this.

I agree with you, said an individual on the other side of the box, or bench, as it rather might be called. It was the Mountainards that runed the republic, at the very time they were running down others under the charge of incivicism, and conspiracy against the republic.

Doubtless, said the Captain ; It is in popular intemperance, that aristocracy, and despotism have their source.

At this instant the blowing of a horn announced the arrival of the post ; the late papers were brought in, and all began to read.

CHAPTER XI.

THE Captain having a short space of time to spare from his avocations, and disposed to take the air, had walked out and coming near the small building which served as a hospital for the village, was disposed to visit it and see the state in which it was, with what new objects, since he had been absent on his peregrinations.

He was shewn by the keeper an extraordinary object in a cell, a man who imagined himself a moral philosopher, delivering lectures. His observations were occasionally fraught with good sense. While the Captain stood, in the passage opposite his door, he made a note of some part of his discourse, and which, having had an opportunity of copying, we shall give to the reader. It was on the subject of the resentment of injuries.

"It is a strange thing, said he that we cannot submit with equanimity to evils in the moral world, as we do in the natural. We expect a fair day, and there comes a foul. Is it any gratification to us, to beat the air, or stamp upon the puddle? Who would think of giving the cow skin to a hurricane? Yet the greatest damage is sometimes done by a blast of wind. He would be thought a madman, and be sent to this

place, who was deprehended buffeting a whirlwind, even though it had torn up by the roots, or broken down a fruit tree. He must be out of his senses indeed, that would have recourse to a bludgeon, in case of an attack by an inundation. It would be a laughing stock to see even a Turk giving the bastinado, to a hot season, or to cold weather. The knout to a Russian winter! Did the Pope ever excommunicate a storm on the ocean? What man is angry with a squall of wind? He considers it as an evil, and composes his mind to the loss of his merchandize. Is ingratitude less to be expected? And yet when it happens, we reprobate, and seek revenge. Sufferings from moral causes, are just as common as from natural. And yet when an injury is committed by a human creature, we are taken by surprise, and lose temper. Cannot we turn away, as from a sudden gust, and take shelter under some one willing to protect us, without thinking more of the enemy that had beaten us, with his fist, or abused us with a bad tongue? The pelting of a hail stone never induces you to use hard words, or to demand satisfaction of the atmosphere; and yet you will send a challenge, and risk your own life to punish a man that has barely slighted you in manner, or in words. Why not take the other side of the road, and pass him by as you would a pond of water, or a marshy place? Cannot we take the necessary precautions against calumny, as we would against foul air, without putting ourselves in a passion with the author of the defamation any more than with a vapour, or an exhalation? But there is such a thing, as will and intention in the moral agent. Is this any thing more than an idea, a matter of our own imaginations? It is the same thing to us whether there is a *spirit* in the winds, or *no spirit* when a house is blown down; or the roof carried

away. What is it to us, whether the cause thinks, or does not think. We blame it the most sometimes because it does not think. We call in question the understanding of a man when he wrongs us; and say, if he had the reflection of a reasonable being, he would have conducted himself in a different manner. And yet the consideration that he had not reflection, does not mitigate, but increases our resentment Oh! the inconsistency of human life and manners. I am shut up here as a madman, in a mad place, and yet it appears to me that I am the only rational being amongst men, because I know that I am mad, and acknowledge it, and they do not that they are mad, or acknowledge it."

As far as my small judgment goes, says an orator, when he is about to express an opinion; and yet he does not think his judgment *small*. He would take it much amiss if any one took him at his word, and would say, true it is, *your judgment is but small*. All think themselves wise, wise, wise. But I say, fools, fools, fools. At this he threw himself down on his couch, and fell asleep.

In the next apartment was an insane person, who stiled himself the "Lay Preacher," who took his text as usual; and began to preach. Book of Judges, 21. 25. "In those days there was no King in Israel; and every man did that which was right in his own eyes."

That was right, said a mad democrat, who was confined in a cell across the passage. When we got quit of a king, the same thing was expected here, "that every man should do that which was right in his own eyes;" but behold we are made to do that which is right in the eyes of others. The law governs, and this law is made up of acts of assembly, and the decisions of the courts; and a kind of law they call

the common law. A man's nose is just as much upon the grind-stone as it was before the revolution. It is not your own will that you must consult; but the will of others. Down with all law, and give us a free government, "that every man may do that which is right in his own eyes."

Madman, said the Preacher; thou knowest not what thou sayest. It is not allowable that men should do that which is right in their own eyes. A man is not a proper judge of right in his own cause. His passions bias his judgment. He cannot see the right and justice of the case. The want of a king in Israel was accompanied with the want of laws. I do not mean to say that, without a king there cannot be laws. But kings are put here for government, that being the government, at that period known in the world. For even a mixed monarchy is an improvement of later times. The meaning is, there being no government, every man did that which was right in his own eyes; and ten to one, *but it was wrong in the eyes of others:* A wild state of anarchy. A time for Sampson to live, that could knock down people with "*the jaw bone of an ass.*"

What worse, said the democrat, than amongst us, where we see honest men knocked down with the *jaw bones of lawyers*, arguing a cause, *and the judges that decide upon the case.*

Passing on, the Captain came to the stair case, and ascended to the second story; he wished to see a mad poet who had been engaged in travestying his travels. He had the advantage of a commodious apartment, more so, than some of those who have surpassed him in his art in different places and periods of the world. The poet Dryden was not so well accommodated, at the time he wrote his St. Cecilia's Ode, which is thought to be the best of his composi-

tions. The poet that we have before us, was a quiet man, and had the privilege of the hospital, to go and come as he pleased, but not to go without the walls. He was confined here by his relations merely as a matter of convenience, being so absent in mind, that he was incapaple of taking care of himself. The manuscript, in doggerel verse, would seem to be sufficient to compose a book, half as large as Hudibras. He was overjoyed to see the Captain, who was the hero of his poem; and the Captain was no less amused to see him, and the adventures of which he made a part turned into rhyme. His sensations were equally sublime with those of the Trojan hero, when he saw the war of Troy in the paintings hung up in the hall of the queen of Carthage. The circumstance was not less entertaining to him as the actor, or the speaker in the course of the adventures so recorded, and he consented to accept a copy, not that he meant to give it to the press, but to cast his eye over it, for his particular amusement: nevertheless, the manuscript having fallen into our hands, we shall select parts of it, and according as the reader seems to like that which he gets, we shall give him more. In the mean time we shall dismiss the Captain from the hospital, not but that there was much more to see and hear amongst the Bedlamites still, but affected with melancholy and weary of the scene. At the same time doubting with himself, whether those he saw confined were more devoid of reason than the bulk of men running at large in the world. He had no doubt of one being a lunatic of whom the keeper made mention, but whom he had not an inclination to visit, in the second story; for he was said to be employed looking at the moon, with a pair of spectacles which he took for a telescope. For lunacy means moon-struck, and this seemed to be the case with him.

CHAPTER XII.

HAVING turned his back on the hospital, there was a concourse of people: the cry was a new code of laws.

A new code, said a grave man? Is not the old, the result of experience, a gradual accession of rules and regulations in society? Begin again, and you would come to the same result at last. But to form laws from abstract comprehension, fitted to all exigencies, is not within the compass of the powers of man. It is sufficient if he can form a schedule or plan of government; this is the outline, the interior gyrations, must be made up from repeated experiments.

The words new code, were mistaken by some amongst the crowd, for no code.

No code, was repeated through the multitude.

What no laws at all, said the grave man?

No laws, was the outcry immediately, and every vociferous person wishing to hear himself speak, and every timid person, afraid of being suspected of incivicism, began to call out, no laws.

That will never do, said the grave man, it were better to have no judges than to have no laws, or at least as bad. For how can men judge but by laws. Arbitrary discretion is a blind guide.

The words no judges, had been heard more distinctly than the rest, and supposing it to be a substitute for no laws, voices came from every quarter in support of the amendment. I support the amendment; I agree to the substitute, no judges, no judges.

The clamour became general, down with the judges.

This puts me in mind, said the Captain, of the sermon of the Lay Preacher. I should have no objection to an amendment of the law, or to new judges but no laws, no judges, is more than I had expected to have heard in an assembly of republicans.

A person standing by was struck with the good sense and moderation of this remark, and stepping forward, made his harangue.

I will not say, said he, that I am for no judges; But this I will say, that new judges is a desideratum in the body politic. The greater part that we have are grown gray, and are as blind as bats: they cannot see without spectacles. I am for new judges.

You talk of judges, said the grave man, as if it was as easy to make a judge of law as to make a bird-cage, or a rat-trap.

What, said a merry fellow, shall we have new shoes, new pantaloons, and new every thing; and shall we not have new judges? We shall never do any good with the present set of judges on the bench.

It was carried that there should be new judges.

But having disposed of the old, it became a question whom they should elect for new. The bog-trotter was proposed for one, having had his name up before in the matter of the newspaper.

What, my waiter, said the Captain? Yes, your waiter, said a wag, or a fool, I do not know which.

You astonish me, said the Captain. My waiter a judge of the courts. He will make sad work on a bench of justice. He will put down all law. He will silence all lawyers. He will have no law: no books; no cases; all plain sailing with him. Every man his own lawyer, state his own cases, and speak for himself. No Hooks and Crooks; no Hawkins; no Bacons; or Blackstones; or Whitestones; no Strange cases; no law of evidence. Every man sworn and tell what he knows, whether he has seen it, or heard it, at second, or at first hand: interest or no interest; all the same; let the jury believe what they think proper; and the judge state the law from his thumbs ends without books.

This is madness, and here I have more trouble on my hands with this bog-trotter, than I have ever had before. It is a more delicate matter to see him placed on the seat of justice, to administer the laws, than to be in the Senate House, and assist to make them. For in that case he would be but a component member of a great body, and his errors, might be lost in the wisdom of the other members. But in the capacity of judge he is sole, or with but a few, and it is an easier matter to frame a single law than to expound and apply a thousand.

Gentlemen, said he, addressing himself to the multitude, you will ruin your administration. You will bring disgrace upon it. The people will not feel your error at once; but they will feel it by and bye, and will depose you who have been the most active in this cavalcade. That is, they will withdraw from you their confidence. The abuse of power leads to the loss of it. No party in a government, can exist long, but by moderation and wisdom. *The duration of power, will always be in proportion to the discreet use of it.* I am shocked at your indiscretion. Have

not some of you read Don Quixotte? In the capacity of judge, Sancho Panzo made some shrewd decisions; or rather Cervantes made them for him; for, I doubt much whether Sancho ever made one of them. But who is there of you, will make decisions for Teague. I doubt much whether he would take advice, or let any one judge in his behalf. Besides that of a judge is not a ministerial office, and cannot legally be exercised by deputy. You will make pretty work of it with Teague for a judge. It may be according to the light of nature; but not according to the law of nature that he will judge. At least, not according to the law of nations: for no nation under heaven ever had such a judge. Not even in the most unenlightened times. If he had a knowledge even of the old Brehon law, in his native country, it might be some help. But in matters of meum and tuum he has a certain wrong headedness that hinders him from ever seeing right. He thinks always on the one side; that is on his own side. But what he would do between suitors, I am not so clear. but I take it he would be a partial judge. The man has no principle of honour or honesty. He would be an unjust judge.

Will not the commission make him a judge, exclaimed one of the multitude.

But will it make him capable of judging, said the Captain?

Why not, said a boisterous man. What else qualifies or makes fit. Can the most sensible man, or the most learned person, judge without a commission?

Doubtless that is the authority, said the Captain. But still the capacity.

Capacity! Said a man, with a bit out of the one side of the membrane of his nose, snivelling in his

speech; capacity! Give me the commission, and I will shew you the capacity. Let me see who will dare to question my capacity.

Such a burlesque, said the blind lawyer, tends naturally to the overthrow of justice. For able and conscientious men will withdraw from a degraded station. Intrigue, worse than, perhaps, the arm of flesh itself, will come to be employed in the management of causes. Security of person, property, and reputation, the great end of civil institutions, will be rendered precarious. The security of them depends upon fixed and known rules, as well as the application of them. It is not an easy matter to attain a knowledge of these rules. The laws of a single game, at school, or of such as employ manhood, in an hour of amusement, is a thing of labour to acquire. The law parliamentary; or rules of a legislative body, is not learnt in a day. And yet without a knowledge of it, there is a want of order, as well as dispatch in business. The laws of municipal regulation in a community, laws of external structure, and internal police, are not attainable with the celerity of a moments warning. But when we come to the rules of property, the laws of tenure and of contract, a field opens, that startles the imagination. Even the study of years, makes but a sciolist. But, you will say, lay aside rules. Let all decisions spring from the dictates of common sense applied to the particular case before the judge. But the mere arbitrary sense of right and wrong, is an unsafe standard of justice. A free government, is a government of laws. A Cadi or a Mufti are tolerable only in despotic countries. You are destroying your republic by undermining the independence, and respectability of your judiciary. It is that branch of the government, on which liberty most essentially depends.

The multitude seemed to be but little moved by these observations, which made it necessary for the Captain to try what could be done with the bog-trotter himself, to dissuade him from accepting the appointment. Accordingly, taking him aside, he spoke to him as follows:

Teague, said he, will there be no end of your presumption? I take it to be a great error of education in our schools, and colleges, that ambition is encouraged by the distribution of honours, in consideration of progress in letters; that one shall be declared the first scholar in languages, another in mathematics. It is sufficient that the fact be so without announcing it. The self-love of the student will find it out himself, without information, and his fellows will be ready to acknowledge it, provided that it is not arrogated, or a demand made that it be formally acknowledged. For this takes away the friendship of others, and corrupts the moral feelings of the successful competitor himself. Ambition springs up, that accursed root which poisons the world. Now, you cannot lay your ambition to the charge of schools or colleges: for, you have never been at any seminary whatever, as far as I understand, if I may guess from your want of attainments in academic studies; and yet notwithstanding you have never been in the way of the distinction of grades, and prizes, and literary honours; you have discovered an ambition of a full grown size, even at this early period of your life. It must be a bad nature that has generated this preposterous aiming and stretching at promotion. A wise man will weigh, what he undertakes; what his shoulders can bear, and what they cannot. He will consider whether the office is fit for him, or whether he is fit for the office. He will reflect that the shade is oftentimes the most desirable situation. Do you

see that bird upon the tree there? It builds its nest with care, and endeavours to render it convenient. But does it build it on the topmost bough, exposed to the sun, and the heavy rain; or rather does it not choose an inferior branch in the thickest of the umbrage? Take a lesson from the fowls of heaven, and the brutes of the field. It is not the elevation of place, but the conveniency of accommodation that governs them. Ambition is an accursed germe of evil in the human mind. It is equally destructive of the happiness of the possessor and of that of others. You a republican, and yet destitute of republican virtue, the basis of which I take to be *humility and self-denial.* Were I the master of an academy, the first, and continual lesson would be, to attain science, and be learned; but as to seeming so, to consider it as of no account. *Science would discover itself.* The possessing knowledge would be its own reward. The concealment of all self-knowledge of this advantage, not only constitutes the decent and the becoming in life, but lays the foundation of emolument *in the good will of others.* It may be pardonable in early age to have pride in the advantage of bodily form; but we call in question the modesty of a youth, male or female, who seems to set an inordinate value, on a limb or a feature. How much less tolerable, *the pride of mental superiority* But of all things under heaven the most contemptible, and the least sufferable, is that of incompetency to a trust, and the aspiring to a place, for which the candidate is not qualified; or, even if qualified, against modesty, and the claims of others. It brings a man to be the subject of a laugh, and ridicule. Do you know that the making you a judge, was but a farce, in the manner that Sancho Panzo was advanced to a government. You have read the Don Quixotte of Cervantes, I presume. But

What do I say; you read Don Quixotte! you have read nothing; and yet you would be a judge. Ambition, I tell you, is an evil. You have read of Julius Cæsar, in the Roman history. Again I forget myself. You have read nothing. But I may tell you of him. What was the purple to him compared with losing the affections of his countrymen? Though, by the bye, there is some reason to think that it was neck or nothing with him, and that self-preservation made it necessary to usurp the empire, things having come to that state at Rome, that if he did not usurp, another would. But a good republican, and a virtuous man, would rather fall, than save his life, at the expence of the rights of others. But it slips my memory that I am talking to a bog-trotter. There is no making a silk purse out of a sow's ear. Suppose you were made a judge; in this hurly burly of the public mind, would your standing be secure, even with the most perfect competency for the place? You would not stand two throws of a weaver's shuttle. Your chair, under you, would be like an old piece of furniture bought at a vendue, put together for sale; the glueing gone, and the joints broken. It would fall before it had felt half your weight, and leave you, with your backside upon the floor. New judges to-day, and the public mind would have desired new judges to-morrow Consider the physical consequence of being broken from the bench. Take my word it is not a common breaking this; it will affect your frame at every change of the weather. It will make an almanac of your whole system It will make your joints ache. It will be worse than a sprain in the ancle; or a rheumatism in the limbs; or a sciatica in the small of the back. It will give you a cholic every new moon, and take away your sleep at midnight. It will give you the jaundice; and hurt your complex-

ion. Your eyes will become yellow, and your cheeks green. You will lose your appetite; and not be able to eat, even when you can get it. Why man; it will blister your feet, and break your shins. It will bring you to death's door, before you have lived half your days.

By de holy poker, said Teague, I will be no judge, if dat is de way of it. Dey may judge for demselves; I will be no judge. De devil a judge will I be; I would sooner dig turf or be a horse jockey at fairs in Ireland, dan be a judge on dose terms; so dey may make whom dey please a judge for me.

CHAPTER XIII.

CONTAINING OBSERVATIONS.

TO speak seriously upon the subject, I doubt much, whether in the present commercial state of society, and where property is not held in common, people would be safe and prosperous without law altogether. I do not know whether, even lawyers are not a necessary evil. It is true, they take up more time, than is perhaps necessary, in their pleadings, and cite more authorities than are absolutely applicable to the point in question. The younger council read authorities, to shew that they have read, and the older to prove that they have not forgotten. I would allow ninety nine cases out of an hundred, that have nothing to do with the matter; but the citing five hundred cases, not one of which is any thing to the purpose, is carrying it to an excess which in strictness cannot be justified. It takes up time, and is not paying a proper respect to the common sense of the country. A little original reason and reflection of the advocate himself might answer the purpose in some cases. The reason of a man's own raising, may be as good as that which is bought at market.

——What is't t' us,
Though it were said by Trismegistus?

Not that I mean to undervalue, much less to lay aside altogether, the assistance of borrowed reason, and the auxiliary deductions of other men, whether on this side the water or beyond it. But there is such a thing as being enslaved to authorities, or at least, loading the argument with too much incumbrance of quotations. It depends a good deal upon the countenance given by the court to such a lumber drawn from old books; yet the correcting it requires an infinity of care, lest you lose the advantages of recurring to first principles.

Antiquos recludere fontes. The profound divine reads the commentators and thence assists the comments which he makes himself. The avoiding one error leads into a worse.

——Fuga Culpæ,
In vitium ducit.

In tearing up the darnel, the wheat may come with it. The books must be read.

Nocturna manu, versate diurna.

But in an argument, I value more the judgment of selection, than the labour of collecting. It is a flattering thing to a court, to take it for granted, that they understand first principles; and even a jury are not displeased when you seem to suppose in the summing up the evidence, and the remarks upon it, that they themselves can see a thing that is as plain as a pike-staff. Hence, long speaking, and an over-minute investigation, is sometimes odious. Or to attempt to make them believe what cannot be believed, makes a man sick, provided he is not disposed to laugh. This depends a good deal on the natural playfulness of his mind or the mood in which he is, from the want of food, or sleep. I excuse the people

shewing a dissatisfaction to the trial by jury, under the pleadings of advocates, when the harangues, in an evening are like to prove eternal. When the stream of the orator turns upon itself; visits the ground that it had left, and is unwilling to quit the enchanted borders of the argument.

Yet, I think, all things considered, that there is some use in courts of justice; and that it would not consist with antient habits, to lay them aside all at once. Liberty has been accustomed to them. I do not find that she has ever done without them. Wherever she comes, she seems to call for them.

There is a strange coincidence between liberty, and an established jurisprudence. Whether it be matter of accident, or a connection in the natural existence, may deserve investigation. To give the devil his due, there is a good deal of pains taken in the courts to secure a fair trial, in the empanneling the jurors, and the admissibility of evidence, whether oral or written. As to the protecting the suitors from each other, and what is called *the consequential contempt*, it is a matter too delicate to touch upon, and we shall pass it by. But it seems to me that the peace is better kept, than if there were no courts at all, and no protection given to the parties, relative to the matter in question, even out of doors. However, this I leave to the consideration of the prudent.

Some are of opinion that it would be better to argue all matters of meum, or tuum, in the public papers, or in hand-bills posted upon trees. The principal objection I see to this, is that the suitors waxing warm in the controversy, would call one another names and come to blows. A great deal of ill-blood between neighbours might shew itself. How could you keep lawyers from writing in the gazettes, any more than from speaking at the bar? And here, their jargon re-

duced to paper, would spread wider, and have more permanence than floating on the atmosphere with which their breath had mixed it in the first instance. The theories of ingenious men are not to be discouraged; yet it is not to be taken for granted that every theory that is plausible, is practicable; and will be found to answer the expectations of the most deliberate projector.

The independence of judges, is a favourite theme with the judiciary themselves. And doubtless there is some reason on their side. For the Scripture says, "*the fear of man bringeth a snare;*" and the man that has most influence, in elections, is likely to be most *feared* by *an elective officer*. It would not be a state conducive to justice; that in giving judgment, the judge should be under the temptation to be looking about, and turning in his mind, the probability of being turned out in consequence of the judgment he was then to give: whether John O'Nokes, or John O'Stiles were to be the next members of the Legislative body. But this supposes judges fallible, and subject to the weakness of human nature, which is not to be supposed at all.

But if you confer independence any more than in a ministerial officer, the judge becomes impudent. Power corrupts. It is natural to count too much upon a man's standing. Every one overrates his own importance; much more his own services. Self-love, and self-consequence swells, and produces oedematous effects. The man that has given his vote at an election, or written a paper, will conceive that he has turned the election; *that day light springs because he has croak'd.* He will denounce the man that differs from him, as swerving from the faith; the orthodoxy of the creed; making no allowance for the different organization of the brain, and the conception of

things. How much more intolerant is a man like to be, that conceives himself fixed in a seat for an interminable period.

There is such a thing as tyranny in judges; and I am no enemy to the investigation of official conduct. But let the power paramount, the people take care that they exercise not tyranny themselves; or give way to passion, which even in a body politic, is possible. Let the sovereign, like that of all the earth, do justice; and consider that the possession of power is upheld by justice.

But as to the notion of some, that law, lawyers, and judges, might be laid aside altogether; I doubt as already hinted, the good policy of this. At least the experiment may be premature. Republican principles have purified the world a good deal; but I do not know that it is just come to this, that men are universally virtuous. Some vestiges of that ironage yet remain. The old man of federalism enters yet a little into our dealings with each other. I admit that public offices are pretty well purged; but there are unfair transactions yet spoken of among the multitude. It may be too soon yet to abolish all law, and jurisprudence. I admit that courts of law are a check upon the freedom of the press, and I excuse the publishers of gazettes, in their zeal to have them overthrown, or at least reduced to fear and subordination. Because it is drawing all things to their own examination. But are they sure that they are good republicans in this? Or, indeed that they consult their own security in the event of this licence. For prostrate the courts, and the cudgel prostrates themselves. While they are pushing at a judge, they are preparing the way for some robust man in due time, to push at them. With different weapons it is true. For the weapons of the press, are spiritual, or of the mind;

but that of the bludgeon is corporal, and made of wood, or some other material of a solid substance. It is not the interest of a printer that a judge be rendered timid, by persecution ; for he stands between the cudgelist, or pugelist in a controversy with the man of types. Thus the freedom of the press, is supported by the laws, and by the due enforcement of them. Yet it is natural for a man at first view, to think, that if there were no courts, he could write with less restraint. He could make every man tributary to his opinion ; or to his measures ; for if he did not libel, he could threaten to libel, and compel a submission.

It seems to me that a poor man is safer in a country of laws, than in one without laws. " For wealth maketh many friends ;" and I do not hear any complaints that the rich are favoured in the courts. But, that may be owing to the mode of trial, which is in the face of the world, and where lawyers are suffered to make as free with the character and conduct of a rich rogue in a cause, as with one of a more circumscribed estate. This last is one argument I have just hit upon, in favour of lawyers ; and I find myself well disposed to give them a lift when I can with propriety. For though I would be willing to muzzle them a little in their speeches ; yet I do not wish to see them run down altogether.

Fortitude is a requisite qualification in a judge. It requires resolution to preserve order at the bar; overawe petulance ; arrest impertinence in manners, or in argument ; suppress side-bar conversation ; and render the practice tolerable to practitioners of mild and modest demeanor ; of delicate and gentle disposition ; of scrupulous honour, and liberality in the conduct of a suit, or management in courts. Resolution is necessary to decision unequivocal and satisfactory, unawed by forensic opinion or the influence of individuals. It is dangerous therefore to sap this

spirit of independence, by the precarious tenure of the office, while at the same time the right of the citizen is examined, and the power of the court considered in its latitude and operation. All I mean to say, is, that the examination of the judicial conduct is a high trust, in the view of an enlightened public, and answerable to the present time, and to posterity, for the consequences.

CHAPTER XIV.

WHAT is the reason of the fluctuations of parties in republics?

The reasons are many. But one is the unskilful driving of the state carriage, by those who get possession of the curricle. Phaeton, you know, though he had the best advice from his father

In medio tutissimus ibis.

The middle way is the best; yet before the middle of the day, he had set the earth on fire. The people are always honest, but oftentimes the instruments of their own servitude; by distrust where they ought to have confidence, and confidence where they ought to have distrust. The bulk cannot have perfect information; and that reach of thought which observation, and experience gives. They must trust a good deal to others in the science of government, and the expediency of public measures; and it depends upon those whom they do trust, whether the power of a party is long lived, or short. All depends upon the wisdom, and integrity of those that lead. What ruined the federal administration, but the intemperance of driving. The upright disapproved, and the prudent forsook it. The unskilful pilots were not aware of an under current that had begun to set. Extremes

will always beget the same effect; and like the tension of a chord, produce a return in a contrary direction. Judgment, how far to go, and where to stop, is the great secret. Trained shaft horses, that will back down the inclined plane of a hill, are excellent in a team. Younglings, though mettlesome, and generous, are apt to draw too fast, upon a declivity or even on a plain.

For that reason, I cannot say, that I am favourable to a change of representatives every year, even when what has been done, does not altogether please me. Because experience is a great softner of the mind; it gives knowledge. A man after some times begins to understand the game, and to find out who it is that takes a lead with a view to some object of his own. That may be unfathomable in the early breaking of the business, and yet come out at last *Or a man may come to see his own error, and profit by the recollection.*

But how will an honest man in a deliberate body, know what to trust but his own judgment? Nothing. Then let him think humbly, diligently, extensively, distrusting pre-conceived opinions, and laying his mind open to the light of truth. Yet there may be some rules to guide the judgment. Such as trusting the judgment of others who have had experience in the science, or establishment, relative to which, the question is agitated, or the measure proposed. Every one is to be trusted in that thing, of which he has some knowledge.

That man is to be trusted who is free from the imputation of inordinate selfishness in private life. You will find an artist that is fonder of the art than the emoluments. There are men that connect the public good with their own happiness; generous spirits who manifest this by their disinterestedness in ordinary transactions. This is a good sign, and ought to

inspire confidence in their agency, in public matters. *The man that covets good will more than money, and the praise of benevolence, more than that of private gain,* has some soul in him, and other things equal, is to be trusted before him of a contracted spirit, and self-love in all his actions.

But after all, things will take their course; and no party in a republic will retain power always, because they will abuse it; but the duration of power in an elective government, will depend considerably upon the being able to distinguish between vigour and moderation.

CHAPTER XV.

CONTAINING OBSERVATIONS.

THERE is a natural alliance between liberty and letters. Men of letters, are seldom men of wealth, and these naturally ally themselves with the *democratic interest* in a commonwealth. These form a balance with the bulk of the people, against power, springing from family interest, and large estates. It is not good policy in republicans to declare war against letters; or even to frown upon them, for in literary men is their best support. They are as necessary to them as light to the steps. They are a safe auxiliary; for all they want is, to have the praise of giving information. The study of political law, and municipal jurisprudence qualifies to inform, and hence at the commencement of the American revolution, lawyers were the first to give the alarm and assert the rights of the people. Shall we forget the recent services of lawyers in the framing the federal, and state constitutions? The name of lawyer ought not to be hunted down, because there are characters, unworthy of the profession, with whom the love of money is inordinate, and insatiable.

There is ground, for the regret, that literary institutions are not favoured; that it has become a popular thing to call out against learning, as not necessary to make republicans. The knowledge of our rights, and capacity to prosecute, and defend them, does not spring from the ground; but from education, and study. Under a federal government; we are peculiarly situated. We stand in need of law, learning, and legal abilities to support ourselves in a contest with the claims of the general government, which, as it bounds the state jurisdiction, must in the nature of things encroach upon it. It is of great moment, with a view to this very object that our judiciary be composed of able men, that under the concurrent jurisdiction of the courts, it may be able to hold its own; or more especially, that from a want of confidence in the abilities of the state judges, recurrence may not be had to the tribunals of the United States, by legitimate election, or by those collusions against which it is difficult to guard.

CHAPTER XVI.

THE rumour had prevailed, that the judges had been broke.

Is it upon the wheel? Said a learned man; for he did not think it could be with the bow-string that they had been punished; for that is the mode towards public officers, in the dominions of the Grand Seignior; nor did he think it could have been with the knout or bastinado; as that is usual only in Russia, and makes a part of the penal code, at the discretion of the Czar.

Not upon the wheel, said a by-stander; they are not broke in that sense of the word. It is but a removal from office, that is intended by the word, broke; and not the breaking of the back, or the limbs, or any part of the body.

Why break them? said the learned man, even in that sense of the word. That is remove.

Because they gave a wrong judgment, said the by-stander.

There could na be a better reason, said a Scotch gentleman, it is contrary to the very end o' their creation.

Why not reverse their judgment? said the scholar.

Because it is better to reverse themselves, said the Scotch gentleman; and let them and their judgment a' go thegether.

At saying this, a person came in who gave intelligence, that the 4th of July being about to be celebrated, the people had made choice of Teague O'Regan, the Captain's man, to deliver an oration, on this, the anniversary of our independence, and to draw up the toasts.

Will absurdities never cease? said the Captain, in a free government. My bog-trotter chosen to deliver an harangue, in commemoration of the men, and measures, of our great national contest! It is for the celebration of the festival. Astonishing!

Teague, said he, I could have put up with the great variety of functions to which you have been proposed; or have proposed yourself; even that of a judge of the courts of law; as being matters of a mere secular nature, and forensic concern; but to be the organ of the celebration of a festival, which has become in a manner sacred, by the cause to which it is consecrated, is beyond all endurance; and as to the drawing up toasts, or sentiments for the day, you are incompetent. You may be equal to the fabrication of a common place allusion to the prevailing cry, and make it the voice of the occasion, as for instance, to give a slap at the judges.

But as to hitting off thoughts on the principles of government; or practical application in the measures of the administration, you are unequal to the task.

With regard to Teague himself, he had as little thought of delivering an oration, or drawing up toasts as any one else could have. The apothecary who meant to sell medicines on that day, on a stage, had employed him to act in the capacity of tumbler; not that he could tumble; but that he could not tumble;

and so, by preposterous attempts at agility would answer the purpose of moving laughter, and drawing the attention of the multitude, who being collected for that purpose, might be drawn into another, the purchase of worm powders, lozenges, and usual drugs.

The celebration of our national anniversary, will no doubt, be continued while the union of these states exists. It may be continued by the parts probably after a dis-union; an event certain, and inevitable; but which, the wise and the good delight to contemplate as remote; and not likely to happen for innumerable ages The orations delivered on this day, may greatly contribute to postpone the event of a dis-union, by patriotic, and conciliatory sentiments. For this reason, the best abilities, and the most virtuous hearts ought to be chosen to be the orators of the occasion.

But the toasts, or sentiments given on the convivial libations; not in honor of imaginary deities, as amongst the Greeks and Romans; but in honor of deceased heroes, who have passed from a scene where they were mixed with us, and to a scene, where we shall be mixed with them; these expressions of the public mind, ought to be the peculiar care of the aged and the wise. They ought to be the lectures of wisdom. Taking up the matter in this point of view, what delicacy ought to be attached to the expression of sentiment. Let it be considered that on a single thought may depend the essence of liberty; health or poison may be communicated by a word For the toasts of this day are considered as *indications of the public will*, and yet without a due sense of the solemn obligations of honor and honesty, toasts are brought forward, perhaps by an individual, in accommodation to a local prejudice, and merely to accomplish the purpose of an election to a public body. For the fact

is, that toasts are not always real expressions of the sentiments of even a majority of those who suffer them to pass ; they are introduced by the mistake of those, who substitute the sentiments of the uninformed for that of the whole community. But all that is illiberal, on these occasions, ought to be avoided. All inhumanity, and injustice. All anticipation of judgment on cases depending ; all expressions calculated to inflame the decision. For a popular clamour once raised is difficult to be resisted.

Democracy has its strength in strict integrity ; in perfect delicacy ; in elevation and dignity of mind. It is an unjust imputation, that it is rude in manners, and coarse in expression. This is the characteristic of slaves, in a despotism ; not of democrats in a republic. Democracy embraces the idea of a standing on virtue alone ; unaided by wealth or the power of family. This makes "the noble of nature" of whom Thomas Payne speaks. Shall this noble not know his nobility, and be behind the noble of aristocracy who piques himself upon his honour, and feels a stain upon his delicacy as he would a bodily wound ? The democrat is the true chevalier, who, though he wears not crosses, or the emblazoned arms of heraldry, yet is ready to do right, and justice to every one All others are impostors, and do not belong to the order of democracy. Many of these there are no doubt ; false brethren ; but shall the democrat complain of usurpation ; of undue influence ; or oppression and tyranny from ambitious persons ; and not be jealous, at the same time of *democratic tyranny* in himself, which is the more pernicious, as it brings a slur upon the purest principles ?

BOOK II.

IT has been asked, why, in writing this memoir, have I taken my clown, *from the Irish nation?* The character of the English clown, I did not well understand; nor could I imitate the manner of speaking. That of the Scotch I have tried, as may be seen, in the character of Duncan. But I found it, in my hands, rather insipid. The character of the Irish clown, to use the language of Rousseau, "has more stuff in it." He will attempt any thing.

The American has in fact, yet, no character; neither the clown, nor the gentleman. So that I could not take one from our own country; which I would much rather have done, as the scene lay here. But the midland states of America, and the western parts in general, being half Ireland, the character of the Irish clown, will not be wholly misunderstood. It is true the clown is taken from the aboriginal Irish; a character not so well known in the North of that country; nevertheless, it is still so much known, even there, and amongst the emigrants here, or their descendants, that it will not be wholly thrown away.

On the Irish stage, it is a standing character; and on the theatre in Britain, it is also introduced. I

have not been able to do it justice, being but half an Irishman, myself, and not so well acquainted with the reversions, and idiom, of the genuine Thady, as I could wish. However, the imitation at a distance from the original, will better pass than if it had been written, and read, nearer home. Foreigners will not so readily distinguish the incongruities; or, as it is the best we can produce for the present, will more indulgently consider them.

I think it the duty of every man who possesses a faculty, and perhaps a facility of drawing such images, as will amuse his neighbour, to lend a hand, and do something. Have those authors done nothing for the world, whose works would seem to have had no other object but to amuse? In low health; after the fatigue of great mental exertion on sólid disquisitions; in pain of mind, from disappointed passions; or broken with the sensibilities of sympathy, and affection; it is a relief to try not to think, and this is attainable, in some degree; by light reading. Under sensations of this kind, I have had recourse more than once to Don Quixotte; which doubtless contains a great deal of excellent moral sentiment. But, at the same time, has much, that can serve only to amuse. Even in health, and with a flow of spirits, from prosperous affairs, it diversifies enjoyments, and adds to that happiness of which the mind is capable. I trust therefore, that the gravest persons, will not be of opinion that I ought to be put out of the church, for any appearance of levity, which this work may seem to carry with it.

I know there have been instances, amongst the *puritans* of clergymen, degraded for singing a Scotch pastoral. But music is a carnal thing compared with putting thoughts upon paper. It requires an opening

of the mouth, and a rolling of the tongue, whereas thought is wholly spiritual, and depends, not on any modification of the corporeal organs. Music, however, even by the strictest sects, is admissable in sacred harmony, which is an acknowledgement, that even sound, has its uses to soothe the mind or to fit it for contemplation.

I would ask, which is the most entertaining work, Smollet's history of England; or his Humphrey Clinker? For as to the utility, so far as that depends upon truth, they are both alike. History has been well said to be *the Romance of the human mind; and Romance the history of the heart.* When the son of Robert Walpole asked his father, whether he should read to him out of a book of history; he said; "*he was not fond of Romance.*" This minister had been long engaged in affairs; and from what he had seen of accounts of things within his own knowledge he had little confidence in the relation of things which he had not seen. Except memoirs of person's own times biographical sketches by cotemporary writers: Voyages, and Travels, that have geographical exactness, there is little of the historical kind, in point of truth, before Roderick Random; or Gil Blas.

The Eastern nations in their tales, pretend to nothing but fiction. Nor is the story with them the less amusing because it is not true. Nor is the moral of it less impressive, because the actors never had existence. This, I have thought it sufficient to say, by way of introduction in this place.

CHAPTER I.

IF the memoir of the bog-trotter had not advanced the author to a professor's chair; it had, at least, procured him admission to a number of learned societies; abroad and at home: should a new edition of the work come to be published, it will take up, at least, two quarto pages, to contain the names of these member-ships, and honours.

But, notwithstanding the most pressing solicitations, he could not be brought to accept of an introduction to *the St. Tammany Society;* owing to the impression which he still retained of being an Indian chief, from which he had a narrow escape in the early part of this work. For unfortunately, it had been explained to him, that St. Tammany was an Indian Saint; and that the Society *met in a wigwam, and exchanged belts.* They offered to make him a Sachem; but all to no purpose; the idea of scalping, and tomhacking, hung still upon his mind. It was by compulsion, in France, that he took upon him the character of an Esquimaux, in the procession of Anacharsis Clootz.

The Captain presented himself to the Society, explaining these things; and that, in fact, such had been the alarm of the author of the memoir, at the propo-

sition of being made a member, that he had absconded a day or two before. The Society took his excuse ; and made the Captain, an honorary member in his place.

This was no object with the Captain, as he was a candidate for no office ; and could draw no advantage from a promiscuous association. Nor did he see that he could be of any use to mankind in this new capacity, as the propagation of the gospel in foreign parts, or amongst the savages, made no part of the duty. For though *Tammany* himself may have been a Saint, there are few of his disciples that can pretend to sanctity, superior to common christians. Or, at least, their piety consists more in contemplation, than in active charity, and practice. We hear of no missionaries from them, amongst the aborigines of the continent, as we should be led to expect from being called the St. Tammany Society. For it is to be presumed, that this Saint had been advanced into the calender from the propagation of the christian faith, as was St. Patrick ; St. Andrew, and others. And though, as these old societies, with that of St. George, St. David, &c. the duty of evangelists may be excused, the countries to which they belong, being long since christianized ; yet the native Americans which St. Tammany represents, are whole nations of them *infidels*. The sons of St Tammany ought certainly to think a little of their brothers that are yet in blindness, and lend a hand to bring them to light. It is not understood, that even a *talk* has been held with a single nation of our Western Tribes ; though it could have cost but a few blankets, and a keg of rum to bring them together ; and in council a little wampum, and killikaneeque.

But our modern churches, have not the zeal of the primitive : or that zeal is directed to a different ob-

ject, *the building up the faith at home ;* and that in civil affairs, more than spiritual, doctrines, it is not the time now to go about "in sheepskins, and goat skins," to convert the heathen, to the gospel; but the citizens to vote for this or that candidate. The *Cincinnati being a mere secular society*, is excusable ; but the *Saint Societies*, would seem in this, to depart from the etimology of their denomination. I know that some remark on the word Cincinnatus ; and think that it ought to be pronounced as well as spelled, St. Cinnatus ; and in that case all would be on a footing. I have no objection, provided *that it makes no schism ;* for even the alteration of a name might make a schism. And a schism in a *society militant*, such as this is, might occasion a war of swords ; and not a war of words only. I will acknowledge that I would like to have the thing uniform, *St. Cinnatus*, with the rest. So that if it could be brought about without controversy, it would contribute to the unity of designation. But controversy, is, above all things to be avoided. And nothing is more apt to engender controversy, than small matters. Because, small things are more easily lost than great. Or ; because it vexes a man more, to find his adversary boggle at a trifling matter of orthodoxy when he has swallowed the great articles of credence, than to have to pull him up, a cables length, to some broad notion, that separates opinion and belief. To apply it to the matter of the spelling ; qui heret in litera, heret in *cortice*. That is, to give it in English, it may depend upon a single letter how to draw the *cork*. All consideration therefore ought to be sacrificed to good humour, and conviviality, and I would rather let the *heathen* name remain, than christian it at the expence of harmony, and concord. But to return from this digression, to the St Tammany Society, of which I was speaking, and which had some time ago convened.

It was a new thing to the Captain, to take a seat in the wigwam, and to smoke the calumet of peace. But he was disappointed in his expectations, of seeing Indian manners, and customs introduced, and made a part of the ceremony. There was some talk of *brightening* the chain, and *burying the hatchet;* but he saw *no war-dance.* What is more, even the young warriors were destitute of the Indian dress. There was not a moccasin to be seen on the foot of any of them; not a breech-clout; nor had they even the natural; or rather, native brands and marks, of a true born Indian. No ear cut in ringlets; no broach in the nose; or tatooing on the breast. All was as smooth, and undisfigured, as the anglo Americans that inhabit our towns, and villages.

The Grand Sachem, made a speech to the Captain, not in Indian; but in German; which answered the end as well; for he did not understand it. But it was interpreted, and related to the proposition of making him a Chief, which he declined, professing that it was more his wish to remain a common Indian, than to be made even a half-king,* not having it in view to remain much in the nation; or attend the council fires a great deal. He contented himself with putting some queries, relative to the History of St. Tammany; of what nation he was? Did he belong to the North, or the South? The East, or the West? On what waters did he make his camp? How many moons ago did he live? Where did he hunt? Who converted him; or whom did he convert? Why take an Indian for the tutelary saint of the

* *A* half-king, *means double king, or king of two nations, who have him speit between them.*

whites? Why not Columbus; or Cabot? Where did this saintship originate?

To these queries, the Chiefs could give no answer; nor is it of much moment whether they could or not. Some of them are not worth answering.

OBSERVATIONS.

AMONG the Romans, there was a kind creature, of the name of Appolo, who stood by people, and when they were doing wrong, would give them a twitch of the ear, to bid them stop.

Aurum velluit.

I cannot say, that I felt just such a twitch while I was writing the last Chapter; unless figuratively; meaning some little twitch of the mind, recollecting, and reflecting, that it might possibly give offence to public bodies, and societies, especially, the St. Tammany; and Cincinnati; though *none was intended*. But it is impossible to anticipate in all cases, the sensations of others. Things will give offence, that were meant to *inform, and assist*; or to please and divert. In the case of public-bodies especially, no man knows, what may make an unfavourable impression. It is necessary; or, unavoidable as it might be translated; "that offences come; *but wo to him by whom they come*." One would think that in a free country, there might be some little more moderation with regard to what is done, and said. It is a maxim in law, that words are to be construed, "mitior sensu;" or, in the milder sense. It is a Scriptural definition of charity, "that it is not easily provoked." Whereas, on the contrary an uncharitable disposition, is ready to misconstrue, and convert to an offence. A town, a

society, a public body, of any kind might be presumed to bear more than an individual, because, the offence being divided amongst a greater number; it can be but a little, that will be at the expense of any one person. If therefore, any son of St. Tammany, or St. Cinnatus, should feel himself hurt by our lucubration, let him consider that it is better to laugh than be angry; and he will save himself, if he begins to laugh first. Though, after all, some will say, there is nothing to laugh at; and in this, they will be right. For at the most, it can only be *a smile*. It is a characteristic of the Comedy of Terence; that he never forces your laugh; but to smile only. That I take to be the criterion of a delicate and refined wit; and which was becoming the lepos, or humour of such men, as Lelius, and Scipio, who are thought to have formed his taste, and assisted him in his dramatic compositions. Yet I must confess, if I could reach it, I would like the broad laugh; but it is difficult to effect this, and, not, at the same time, fall into buffoonery, and low humour. Laughing is certainly favourable to the lungs; and happy the man, whose imagination leads him to risible sensations, rather than, to melancholy.

All work, and no play, makes Jack a dull boy. But I have no idea of laughing, any more than of playing without having perfomed the necessary task of duty, or labour. An idle laughing fool, is contemptible and odious; and laughing too much is an extreme, which the wise will avoid. Take care not to laugh, when there is nothing to laugh at. I can always know a man's sense, by his song, his story, or his laugh. I will not say his temper; or principles; but certainly his share of understanding. The truth is, this composition has more for its object than merely to amuse though that is an object. But I doubt whether we shall receive credit for our good intentions. For truth lies in a

well ; and unless there is some one to draw the bucket, there is no getting it up.

We have been often asked for a key to this work. Every man of sense has the key in his own pocket. His own feelings ; his own experience is the key. It is astonishing, with what avidity, we look for the application of satire which is general, and never had a prototype. But the fact is, that, in this work, the picture is taken from human nature, generally, and has no individual in view. It was never meant as a satire upon men ; but upon things. An easy way, to slur sentiments, under the guise of allegory ; which could not otherwise make their way to the ears of the curious. Can any man, suppose, upon reflection, that if ridicule was intended upon real persons, it would be conveyed in so bungling a manner that people would be at a loss to know, who was meant ? That is not the way, we fix our fools caps.

Let any man put it to himself, and say, would he wish to be of those that give pain by personal allusion, and abuse. Self-love, for a moment may relish the stricture ; but could never endure to be thought the author. In attacking reputation, there are two things to be considered, the manner, and the object. When the object is praise-worthy, there is an openness a franknes, and manliness of manner, which commands respect. But even where the object is a public good, the manner may excite contempt. Let our editors of news-papers, look to this, those of them who wish to be considered gentlemen ; such as have no character to lose, and never wish to have any, may take all liberties, and occupy their own grade.

But as we were saying, public bodies, and societies of men, ought not to take offence easily ; nor resent violently "As they are strong, be merciful." A single person is not on a footing with a great number.

He cannot withstand the whole, if they should take offence without reason; and he may be consciously scrupulous of fighting; or may be afraid to fight; which will answer the end just as well; or he may have the good sense and fortitude, to declare off; which by the bye requires more courage, *than the bulk of men possess*. It requires a courage *above all false opinion;* and the custom will never be put out of countenance, until some brave men set the example. There is nothing that a wise man need fear, but *dishonor*, founded on the charge of a *want of virtue;* on that *which all men, of all places, and of all times, will acknowledge to be disreputable.* Under this head, will not be found the refusal of a challenge. *Nothing can be great, the contempt of which is great*, Is it not great to despise prejudice, and false opinion? "He that ruleth his spirit, is greater than he that taketh a city:" but, he that is above the false sentiments of others, presents to me the image of a superior power, that ascends through the vapours of the atmosphere and dissipates the fog. The world is indebted to the man that refuses a challenge; *but who can owe any thing to him that accepts it; for he sanctions an unjust law?* Doubtless, the accepting of a challenge, is pardonable as a *weakness;* but still it is a weakness. The man is a hero, who can withstand unjust opinion. It requires more courage, than to fight duels. To sustain life, under certain circumstances, calls for more resolution than to *commit suicide*. Yet suicide is not reputable Brutus in the schools condemned it; but at Philippi, adopted it. Because his courage failed him.

But cudgelling follows the refusal of a challenge. Not if there is instant notice given to a peace officer. But posting follows. Notice of that may be given

also, and a court, and jury brought to criticise upon the libel.

Why is it, that a public body is more apt to take offence, than an individual? Because, every one becomes of consequence in *proportion, as he is careful of the honor of the whole.* It is oftentimes, a mere matter of accident, whether the thing is well, or ill taken. If one should happen to call out, *that it is an insult*, another is unwilling to question it, lest he should be suspected of *incivism*, and lose his standing in society in general; or, in that to which he more particularly belongs. The *misconception* of one forces itself upon another; and *misconstruction* prevails. That which was the strongest proof of confidence in the *integrity, and justice of the body*, is viewed as distrust; and a concern for their honor, considered a *reproach.* The most respectful language termed *insolence.* Implicit submission attributed to *disrespect. Self-denial* overlooked, and *wantonness of insult* substituted in its place. This, all the offspring of *mistake; which it is the duty of the individual to remove.* But how can he speak *if his head is off, before he knows, that the offence is taken?* Protesting therefore that I mean no offence to either of these societies, or the individual members, in any thing I have said; I request them to take it in good part; or, if there should seem to be ground of affront, they will give me a hearing, and an opportunity to explain.

There is no anticipating absolutely, and to all extent, what a person might say for himself if he was heard. That presumption which had existed might be removed. His motives might appear laudable; or at the worst, originating in a pardonable weakness. Whether or not, the credit of the tribunal with the world, might render it expedient to observe these appear-

ances. They did it in France under the revolutionary government; and even the emperor, *seems to consider it as indispensible*. If therefore any thing in these chapters should unfortunately give umbrage to the sons of St. Tammany, or to the Cincinnati members, I pray *a citation*, and *demand a hearing*. I trust I shall be able to convince them that I am not deficient in respect for them individually, or as public bodies.

CHAPTER II.

THE Captain walking by himself, could not avoid reflecting on the nature of government ; a union of souls, and corporal force. It makes all the difference that we see between the savage, and civilized life. The plough, the pully, the anchor, and the potters wheel, are the offspring of government ; the loom, the anvil, and the press. But how difficult to link man with man ; how difficult to preserve a free government ! The easiest thing in the world, says the clown, *if the sage will only let it alone*. It is the philosopher that ruins all.

There is some foundation for this. A mere philosopher is but a fool, in matters of business. Even in speculation, he sometimes, imagines nonsense. Sir Thomas More's Utopia has become proverbial; Harrington's Oceana has become a model for no government. Locke's Project was tried in South Carolina. It was found wanting. Imagination, and experiment are distinct things. There is such a thing as *practical sense*. Do we not see instances of this every day? Men who can talk freely, but do nothing. They fail in every thing they attempt. There is too much vision mixed with the fact. Want of information of what has been ; the not examining the fitness and

congruity of things, leads to this. You see a tradesman framing a machine. A chip less, or more spoils the joint.

Where is the best account to be found of the Roman commonwealth? In Polibyus. In what did its excellence consist? In its balances. What invented these? The exigencies of the case. Some were adopted in the first instance; others as remedies to the mischiefs that occurred. Were the sages of any use here? A little. Sallust says, "considering the history of the Roman people, that the Gauls were before them in bravery, and the Greeks in eloquence;" yet Rome, has become the mistress of the world; I have found that it has been owing to a few great men that happened to arise in it." Were these men demagogues? Not in a bad sense of the word. They did not deceive the people for their own ends. How do demagogues deceive people? How do you catch a nag? You hold a bridle, in your left hand, behind your back; and a hat in your right, as if there were something in it, and cry cope. What do demagogues want by deceiving the people? To ride them. What do they pretend they have in the hat? oats, salt; any thing they find a horse likes.

How do you distinguish the demagogue from the patriot? The demagogue flatters the clown, and finds fault with the sage. The patriot, and the sage, unless you mean the vain philosopher, mean the same thing. The Jewish prophets were all of them sages. They were seers, *or men that saw far into things*. You will find they were no slouches at blaming the people. "My people Israel is destroyed for lack of knowledge." "*I am wounded* in the house of my friends." *This may be said of liberty, when republicans give it a stab.* The lamentations of Jeremiah are but the weepings of a patriot over the errors of the people.

Yet the people are always right, say the demagogues. I doubt that. *Tom fool*, may laugh at the expression, "save the people from themselves." Nevertheless, there is something in it. It is a scripture phrase, "go not with a multitude to do evil;" which would seem to imply that the multitude will sometimes do wrong.

Do the multitude invent arts? Or some individuals among them? It is sometimes a matter of accident. Sometimes a matter of genius. But it is but one out of a thousand that happens to hit upon it; or that has the invention to contrive. But government is an easy matter; *and has no wheels like a watch.* What is it that enables one man to see farther into things than another in matters of government? What is it that makes him a seer? Thinking, looking, examining. Does it come by inspiration? More by experience. What are the wheels in our government that are like to go first? *The Judiciary, the Senate, the Governor.* Is this the order in which they will go? Precisely. Does any man mean it? Not at all. How can it then happen? In the natural progress of things. Will one house become a tyrant? It will come to be the few; and the few were always tyrants. Will it be but a few in the house, that will govern? It will come to one at last. It will take fifty years to bring it to this. I do not say that it will be a hop-step, and jump; or a running leap, all at once.

But we have the press here. Suppose a leading print in the hands of a patriot. He will keep all right. Yes, provided he is a sage at the same time. That is, that his information on the nature of government, is equal to his patriotism; or that his passion does not betray him into error; the journal of L. Ami du peuple by Marat, was patriotic; but it ruined the republic. An uninformed inflammatory print, is a

corruptress of public opinion. It is the torch that sets Troy on fire. There is no Marat, amongst us, at the head of a Journal; but there may come to be. It is a difficult thing to trim the state vessel. The altering the stowage will put out of trim. The Hancock was taken, by altering the stowage. It destroyed the trim. Yet trimmers are unfavourably spoken of. That is, I presume, halting between two opinions. "Why halt ye between two opinions?" But preservers of the balance are not trimmers in this sense of the word.

But how is it that the people can do wrong, when they mean well? *An uninformed spirit of reform* may prevail. How can passion prevail? The axletree is heated, by the *nave*, and the hob is set on fire. The nave heats itself by its own motion; and fire is communicated to the whole carriage.

CHAPTER III.

THIS was the day of the fair held twice a year in the village. The people had come in and erected booths. The Captain took a walk to see the fair, and on the first stall he saw boxes. What are these, said the Captain? Cases for lawyers, said the Chapman. What will the lawyers do with these, said the Captain? Put them on their back-sides, said the Chapman. That will make them look like soldiers, with cartouch boxes, said the Captain. No matter for that, said the Chapman. A lawyer can no more move without *cases*, than a snail without a shell. They must have *authorities*.

They have too many sometimes, said the Captain, as I have heard the blind lawyer say; but your cases, or cartouch boxes, I presume, are meant as a burlesque. Not altogether, so, said the Chapman; but a little bordering on it. These boxes might answer the purpose, of carrying cases, to the court; but an honest man might put them to a better use: so I say no more, but sell my wares to the customer.

At the next stall was Tom the Tinker, with old kettles mended, and new ones for sale. Ay, Tom,

said the Captain, this is better than resisting laws;* even the *excise* law.

I have found out a better way than resisting laws, now, said the Tinker.

What is that, said the Captain?

Abolish the courts, and demolish the judges, and the laws will go of themselves.

Ah! Tom, said the Captain, leave the public functionaries, to the public bodies; you have nothing to do with them

But I should have something to do with them, said the Tinker, if I had a voice in a public body.

But you have not a voice, said the Captain.

But I may have, said the Tinker.

I would rather hear your voice in your shop, said the Captain; and the sound of your hammer, on a coffee pot, or a tea kettle. You can patch a brass candle-stick, better than the state, yet, I take it, Tom.

Or solder spoons either, said Tom; *but every thing must have a beginning.*

At the next stall was a hard-ware man; in the next, a Potter with his jugs. Anacharsis, according to Diogenes Laertius, invented the anchor, and the Potters wheel; he was a more useful man than him that invented fire-arms; though it is a question with some, whether gunpowder has not rendered war less sanguinary.

A Toyman had his stall next. As the Captain was looking at his baubles, an accident happened on the other side the way. At a short turn, a cart had over-

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* *The chief of the insurrection, in the western parts of Pennsylvania, in the year* 1794, *called himself*, Tom the Tinker.

set. It was light, and loaded with empty kegs. Nevertheless the driver wanted help to lift it up.

The Chapman, the Toyman, the Potter, the hard-ware man, and Tom the Tinker were endeavouring to assist. The Tinker and the hard-ware man, had set their shoulders, to the cart. They hove it up; but, by too violent a push threw it to the other side. The Chapman, and Toyman, thought to set the matter right, and in the adverse direction, applied their force, being on the other side the cart; and to do them justice, gave a good hoist; but over-did the matter, as much as was done before; for the cart came back and lay prostrate in the same direction, as at first.

The driver, in the mean time, was dissatisfied. Gentlemen, said he, do you mean to assist, or to injure me? It may be sport to you; but it is a loss to me, to have my cart broke, and my kegs staved. It is all wrong, said the Captain. Why not let the thing stand upon *the horizontal 2*. None of your tricks upon travellers. Let the poor man's cart have fair play, and stand upon *its own bottom*.

Aye, aye, said a misanthrope; this comes of bad doings. You must be going to the woods; and disturbing innocent forests; cutting down young trees; making staves, and hooping kegs. This is just the way they make laws; to hoop people as you would a barrel. It is right to overturn the cart, on account of the manufacture it carries.

Ah; it is in this manner, said *a moral drawing man*; that people overturn the state. If the vehicle goes to the one side, it is the act of a patriot to set it right. But unskilful persons, pass the line of gravity; so that as much mischief arises, from too much force as too little. Passing the line of gravitation, in erecting a body, is like *wounding a principle of the Constitution*. All errors of *expediency* may be amend-

ed ; but the violations of *principle* are vital, and terminate in death. Put that fellow in a pulpit, and he could preach, said a by-stander ; do you hear what a sermon, he makes upon a cart ? He could take a text ; Nebuchadnezzar, or Zerubabel ; and lengthen out a discourse for a fortnight.

In the meantime, the Captain, was almost carried off his feet, by a crowd of people going to see the learned pig. Has he the *tongues*, said Angus Sntherland, a Scotchman ? He has two, said a wag. The Hebrew, and the Erse, I trow, said the Scotchman. No ; the *squeel, and the gruntle*, I ween, said the drolling person. That is his *vernacular* said the Scotchman ; but I mean his acquired languages. I do not know that he has acquired any, said the drolling man ; but he is considerably perfected in those that he had before.

Weel, that is something, said Angus ; but he has got a smack o' the mathematics, I suppose. A little of algebra, said the wag ; the plus, and minus, he understands pretty well.

The conversation, was interrupted by the vociferation of a man, in soliloquy at a distance. He appeared to be in great agitation : clinching his fists, and striking them against each other. An abominable, slander, said he ; I a scholar ! I a learned man ! it is a falsehood. See me reading ! He never saw me read. I do not know a B. from a bull's foot. But this is the way to injure a man in his election. They report of me that I am a scholar ? It is a malicious fabrication. I can prove it false. It is a groundless insinuation. What a wicked world is this in which we live. I a scholar ! I am a son of a whore, if I ever opened a book in my life. O ! The calumny ; the malice of the report. All to destroy my election. Were you not seen carrying books, said a neighbour ?

Aye, said the distressed man; two books that a student had borrowed from a clergyman. But did I look into them? Did any man see me open the books? I will be sworn upon the evangelists: I will take my Bible oath, I never looked into them. I am innocent of letters as the child unborn. I am an illiterate man, God be praised, and free from the sin of learning, or any wicked art, as I hope to be saved; but here a report is raised up, that I have dealings with books, that I can read. O! The wickedness of this world? Is there no protection from slander, and bad report? God help me! Here I am, *an honest republican; a good citizen*, and yet it is reported of me, that I read books. O! The tongues of men! Who can stop reproach? I am ruined; I am undone; I shall lose my election; and the good will of all my neighbours, and the confidence of posterity. It is a dreadful thing that all the discretion of a man, cannot save him from evil-speaking, and defamation.

It is a strange contrast, thought the Captain, that *we admire learning in a pig; and undervalue it in a man.* The time was, when learning would save a man's neck; but now it endangers it. The neck verse, is reversed. That is, the effect of it. For the man that can read goes to the wall; not him that is ignorant. But *such are the revolutions of opinion.*

Of all things in the world, said a speculative philosopher, I should the least expect science in a pig; though the swinish multitude are not without good moral qualities; or the semblance of these, by propensitive instinct. The herd of deer avoid, or beat off the chaced, or wounded companion: but attack a hog in a gang, and the bristles of all are up, to make battle. There is an esprit de corps; or a principle of self-preservation. They do not wait until they are taken off one by one; but make a common cause in

the first instance. When the twenty-one deputies in the National Assembly of France, were denounced, there were, no doubt, a great number that saw the *injustice;* but not the *consequence.* They were willing that the bolt should pass by themselves, and were silent. But those that followed, soon felt the case to be their own, though they did not make it at first. The hogs have more sense, or *nature is more faithful than reason. A sailor on board a ship may not like his comrades;* but if they are charged with mutiny wrongfully, he is interested and will see it if he is wise; for it concerns him that they be dealt with fairly. For injustice to them, leads, to injustice to himself. *A third mate may dislike the first, or second,* or the Captain, himself, and have no objection to change them; but the mistake, or injustice of owners towards these, affects himself. *If one goes at this turn; another may go at the next; until all fall to unjust accusation. If the independence,* and safety of command is affected all officers suffer, and the service is injured. The picking off one at a time is politic in those that assail; but fatal to those that are assailed. *Polyphemus devoured but one of the soldiers of Ulysses in a day.* So that it does not follow, that hog, likes hog, more than sheep, likes sheep; or *that bristle is champion for bristle; when he comes to take his part; but* that, *the law of self-preservation, is better understood; or felt by this animal.* But as to teaching a pig any thing like human knowledge, though not a new thing, would seem to be of little use. Crows were taught to speak in the time of Augustus Cæsar; as we find from the story of the Cobler, and his crow. The Poet Virgil talks of cattle speaking;

———Pecudesque locutæ.

But this was a prodigy. Learning must go somewhere, as a river that sinks in one place rises in ano-

ther. If erudition is lost with men, it is well to find it with pigs. The *extraordinaries* are always pleasing. The intermediate grades of eloquence, from a Curran to a Parrot, are not worth marking.

A little learning is a dangerous thing.

Drink deep, or taste not the Pierian spring.

If a man cannot be a Polyglotist, he may as well be a goose.

It was at a time things took this turn that Balaam's ass spoke. There was darkness all over Europe, for six or ten centuries, and little knowledge of the scientific kind to be found with man, fish, fowl or beast. A glare of light sprung up, and has prevailed awhile. Men of science have been in repute in monarchies; and in some republics: or at least science itself has had some quarter. But it is now scouted, and run down. The mild shade of the evening, the crepusculum approaches. A twilight, that the weakest eye can sustain. The bats will be out now. The owl can see as well as the cat. *If there is less light, there is more equality of vision;* which may be for the best.

That fellow could preach too, said a by-stander; and give him a text. What a speech he has made *upon a sheat!*

But looking up, they saw a man actually preaching; or something like it in a tavern door, with a newspaper in his hand. It was upon the subject of *oeconomies*. For now all is *oeconomy*. Not making; but *saving*. This discourse was a lecture, on the subtraction of aliment, and the making water go farther by boiling it. Saving the scales of fish; and the stem beaten out of flax; curtailing wages, and doing less work; all things by the minimum: he would have all Miscroscopes; no Telescopes. Minutiæ, Minu-

tiæ, Minutiæ ; nothing great, comprehensive ; or magnificent in his projects. Themistocles knew how to make a great state, out of a small commonwealth. But was it by saving, or by gaining that he did it ? Was the sweep of his mind contracted ; or extensive ? Had the Zar of Muscovy a great heart ? Did he reduce mountains by particles ; or employ his mind upon hen coops ? These were questions, the *œconomist* answered in the affirmative. But some doubted the orthodoxy of the doctrine, and left the congregation.

In a public house, was heard the music of a fiddle, and a bag-pipe. It was Duncan the quondam waiter of the Captain who had made a match of the bag-pipe against the violin. Play up, said Duncan to the piper ; now "*the Coming o' the Camrons ;*" now *the Reels o' Bogie.* Play up ; I could dance amaist involuntarily ; as, I were bit by the Tarantula.

The Latin master was of the company ; and encouraged the contest, by the application of classic phrases ; such as,

Et vitula tu dignus, et hic——
——Boni quoniam convenimus ambo.
Tale tuum carmen, divine poeta.——

But more noise ; though, perhaps less music was heard out of doors coming down the street A crowd of people ; boys and grown persons, were following O'Dell the revolutionist For Ca Ira, or the Marseilles hymn, he bawl'd out the following——

Down with the sessions, and down with the laws ;
They put me in mind of the school-master's taws.
There's nothing in nature that gives such disgust,
As force and compulsion to make a man just.

Hillelu ; Billelu, set me down aisy.
Hillelu ; Billelu, &c.

A lawyer's a liar; old Sooty his father;
He talks all day long, a mere jack-a-blather.
His books, and his papers may all go to hell,
And make speeches there, sings Lary O'Dell.
Hillelu, &c.

The state is a vessel, and hoop'd like a tub;
And the adze of the cooper it goes dub, a dub.
But hooping and coopering, is fitting for fools;
Away wid all learning, and shut up the schools.
Hillelu, &c.

A horse eats the less, when you cut off his tail;
And chickens hatch faster, the thinner the shell.
A clerk in an office might do two things in one,
Hatch eggs while he sits, and writes all alone.
Hillelu, &c.

The song may be good, as to music, said the Captain; but I do not like the sentiments: especially the concluding couplet. It seems to me, that oeconomy has become *parsimony;* the oppsite extreme of prodigality; or extravagance. The one is odious; the other contemptible. All tax; or no tax. There is no medium. And yet all that is excellent lies in the medium. But *no tax, and oeconomy* will as certainly destroy an administration, as all tax, and extravagance. *The meanness of starving offices; establishments; improvements, will attach disreputation to the agents; and operate a removal from the body politic; or the debilitation of the body politic itself.* But in all things there is a tendency to extremes. The popular mind does not easily arrest itself when descending upon an inclined plain of opinion. Popular ballads are an in-

dex of the public mind. Hence we see that an antipathy to laws, lawyers, and judges, is the ton at present and also that *oeconomy is the ruling passion of the time*. Yet in all these things, there may be an excess. *For the people are not always right.* Unless in the sense of the English law, that "The king can do no wrong." Doubtless whatever the people do is legally right; but yet not always politically right. For do we not find from the voice of history, that those men are thought to have deserved best of their country, who have occasionally withstood the intemperance of opinion. Self seekers only "are all things to all men." Three things are necessary to constitute a great man. Judgment, fortitude, and self-denial. It is a great thing to judge wisely. Perhaps this may be said to comprehend the whole. For judging wisely upon a large scale, will embrace fortitude, and self-denial. Hence, in the Scripture phrase, bad men are called *fools*. It is but cutting down the fruit tree, to hark in with a popular cry for the moment. All is gained for the present. But there is nothing for the next year. Such a man may get into a public body, but will not long retain his seat; or, if he does, he loses all, *in the esteem of the virtuous, and the wise.* But I doubt whether the people are so mad for oeconomy. *It originates with those who are conscious to themselves that they cannot please them by great actions; and therefore attempt it by small.* The extreme has been that of unnecessary expenditure; and it is popular to call out economy; which the people-pleaser gets into his mouth and makes it the shibboleth of just politics. But the people-pleaser is not always the friend of the people. *Do we find him in war the best general who consults the ardour of his troops, wholly, and fights when they cry out for battle?* Pompey yielded to such an outcry, and lost the field of Pharsalia. A journal was pub-

lished in France, by Marat, under the direction, or, with the assistance of Robespierre, entitled "*L' ami du peuple.*" There could not be a more seducing title; and yet this very journal was the *foe of the people.* I have no doubt, but that Marat meant well to the people; but he had not an understanding above the public, and judgment to correct the errors of occasional opinion. He was of the multitude himself, and did not overtop them *by having higher ground from whence to observe. He had not been a sage before he became a journalist.* Hence he denounced the Girondists the philosophers of the republic; Condorcet, and others who had laid the foundation of the revolution. He denounced them because they suggested a confederate republic, such as Montesquieu projected, and America has realized. Marat took up with the simple, *the one and indivisible;* the populace understood this, but not the complication, and it prevailed; but the republic went down.

OBSERVATIONS.

I never had a doubt with the Captain, but that the bulk of the jacobins in France meant well; even Marat and Robespierre considered themselves as denouncing, and trucidating only the enemies of the republic. What a delightful trait of virtue discovers itself in the behaviour of Peregrine, the brother of Robespierre, and proves that he thought his brother innocent "*I am innocent; and my brother is as innocent as I am.*" Doubtless they were both innocent. Innocent of what? Why; of meaning ill. "The time shall come, when they that kill you, shall think they are doing God service." Peregrine, led the column with his drawn sword in his hand, that entered and retook Toulon. He threw himself into the denunciation. This ought to be a lesson to all republicans to have charity, for those that differ in opinion. Tiberus, and Caius Gracchus at Rome meant well; Agis, and Cleomines at Sparta the same; but they attempted a reform, well, in vision, and imagination, but beyond what was practicable or expedient. They fell victims to the not distinguishing the times; the advanced state of society, which did not comport *with the original simplicity of institutions.*

Marat the journalist and Robespierre were pushed gradually to blood; by the principle, which governed them, of taking it for granted that all who thought

differently upon a subject were traitors ; and that *a majority of vote was the criterion of being right.* The *mountain*, the bulk of the national assembly, could not but be in their opinion, infallible. *The eternal mountain* at whose foot every one was disposed to place himself; the mountain on whose top were "thunders and lightnings, and a thick cloud ;" but not a natural mountain of the earth, collecting refreshing showers, and from which descended streams. It was a mountain pregnant with subterranean fire. It burst, and exists a volcano to this day. *So much for the majority of a public body, being always right ; and so much for a journalist meaning well, and yet destroying the republic.* It is a truth in nature and a maxim in philosophy "that from whence our greatest good springs, our greatest evils arise." A journalist of spirit is a desideratum in a revolution. But when the new island, or continent is thrown up from the bottom of the ocean ; and the subterranean gas dissipated, why seek for a convulsion? But rather leave nature to renew herself with forests, and rivers, and perennial springs. But that activity which was useful in the first effort, is unwilling to be checked in the further employment ; and under the idea of a *progressing reform*, turns upon the establishment which it has produced, and intending good, does harm. The men are denounced that mean as well as the journalist, and perhaps understand the game better than himself *though they differ in judgment on the move.* In a revolution, every man thinks he has done all. He knows only, or chiefly what he has done himself. Hence he is intolerant of the opinions of others, because he is ignorant of the services which are a proof of patriotism ; and of the interest which is a pledge of fidelity. Fresh hands especially, are apt overdo the matter, as I have seen at the building of

a cabin in the western country. A strong man takes hold of the end of a log, and he lifts faster than the other. From the unskilfulness and inequality of his exertions, accidents happen. Prudent people do not like rash hands. States have been best built up, *by the wise as well as the honest.*

There are men that we dislike in office. All men approved Marius, says the historian Sallust, when he began to proscribe, now and then, a bad man; but they did not foresee what soon happened, that he did not stop short, but went on to proscribe the good. It is better to bear *an individual mischief, than a public inconvenience.* This is a maxim of the common law. That is, it is better to endure an evil in a particular case, *than to violate a general principle.* There ought to be constitutional ground, and a just cause to remove the obnoxious. It will not do even in Ireland, to hang a man for stealing cloth, *because he is a bad weaver.*

Where parties exist in a republic, that party will predominate eventually which pursues justice. A democratic party, will find its only security in this. "If these things are done in the green tree, what shall be done in the dry" If democracy is not just, what shall we expect from aristocracy, where the pride of purse, and pride of family, raises the head; swells the port; produces the strut, and all the undervaluing which the *few have for the many?* Aristocracy, which claims by hereditary right, the honours and emoluments of the commonwealth. Who does not dislike the presumption of the purse proud, and the pride of connections? And it is for that reason that I wish my fellow democrats, "my brethren according to the flesh," to do right; to shew their majesty, the nobility of their nature, *by their discrimination, and their sense of justice.* For I am a de-

mocrat, *if having no cousin, and no funds; and only to rely on my personal services, can make me one.* And I believe this is a pretty good pledge for democracy in any man. Unless indeed, he should become a tool to those that have cousins and funds; and this he will not do if he has *pride.* He might be made a despot, but this can only be by the peoples destroying the essence of liberty, by pushing it to licentiousness. A despot is a spectre which rises chiefly from the marsh of *licentiousness. It was the jacobins made Bonaparte what he now is.*

CHAPTER IV.

A CAVALCADE was coming by, and upon enquiry it was found to be a crowd of people with a lawyer gagged. The knob in his mouth was rather long; and the poor man seemed to be in pain, by the extension of his jaws. He could not speak; which was a great *privation*, it being his daily employment, and the labour of his vocation. For the people thought he spoke too much, or at least was tedious in his speeches, and took up the time of the court, and juries, unnecessarily. But this was a new way of correcting amplification in an orator. It is true that things strike more than words, and the soldier, in a Roman assembly, who held up the stump of his arm lost in battle, pleaded more effectually, for his brother, the accused, than all the powers of eloquence. But it was a wicked thing, and entirely a la mob, to stretch the jaws so immeasurably. But the people will have their way; when they get a thing into their heads, there is no stopping them; especially on a fair day, such as this was. It is true the thing was illegal, and he could have his action, but they took their chance of that. The fact is, the tediousness of lawyers, in their harangues, is beyond bearing, and is enough to drive the people *to adjustment bills*, and

any thing, to get quit of them. The opener of a cause, must lead you into the whole transaction, instead of leaving it to the evidence to do it. He must give you a view of the whole scope of his case. This might be in a few words. But he wants to make a speech; a strong impression at the first. He must tell you how he means to draw up his evidence; *how to fight his men.* I should not like my adversary to know this; I would not tell the court, lest he should hear it. What would we think of a general who should mount the rostrum in the presence of the enemy, and explain the order of his battle? I love the art of managing a cause for its own sake, and I like to see it *scientifically won* The less speaking, almost always, the better for a cause There is such a thing, as "darkening counsel by words without knowledge." *Atticism is favourable to perception in the hearer.* We do not carry wheat to be ground before it is sifted of the chaff. Yet there may be an error on the other side. The declination to brevity may be too great. I am afraid to say much on this head, lest I should be understood to undervalue eloquence, and check it altogether But certain it is, that the excess is on the side of quantity, in speaking at the bar at present. The juries feel it, and twist, and turn themselves into all shapes to avoid it. The courts feel it, and on many occasions, groan for deliverance.

What necessity on a point of law to read all cases, that have relation to the subject? To give a lecture on the elementary principle, and adduce cases, from the first decision to the last. It has been in vogue with the clergy, to begin with Genesis, and end with Revelations; to prove their doctrine as they go along, by an enchainment of texts; and to say the same thing over again, in many different words. But in demonstrating the forty-seventh proposition of the

first book of Euclid, we do not lay down every postulate, and axiom; nor do we go through the demonstration of every preceding problem, on which this is built; but we refer to such of them as enter into that which is before us. The demonstrations of Euclid are brief; and that constitutes their excellence. Ad eventum festinat. Here is no detour; or winding that does not accelerate, and force the conclusion.

In the mean time, the blind lawyer being at hand, delivering a lecture, had heard of the tribulation of his brother the gag'd lawyer; and for the honour of the profession, stretching out his hands to the people, had obtained his enlargement; and the removal of the peg. But it was said, this would be a warning to the advocate, to shorten his speeches for the future. The branks which had been upon his head; that is, the woodys which had tied the knob, were laid aside for another occasion.

CHAPTER V.

IT was a legal proceeding, in this village, that when any one was suspected of insanity, a commission of lunacy issued, and an enquiry was held to ascertain the fact. An inquisition was holden at this time on the body of a man, and it was the right of the defendant when the evidence on the part of the commonwealth was closed, to be heard in his defence. On this occasion the accused person made use of his privilege.

THE MADMAN'S DEFENCE.

Fellow-Citizens ;

It is an awkward situation in which you see me placed, to be obliged to maintain that I am in my *right mind*, and not out of my senses. For even if I speak sense, you may attribute it to *a lucid interval.* It is not a difficult matter, to fix any imputation upon a man. It is only to follow it well up "Line upon line ; precept upon precept ; here a little and there a little." There is nothing but a man's own life, and a course of conduct, that can rebut the calumny. It is therefore in vain, to answer in gazettes, or to go out into the streets and call out *falsehood.* The more

pains you take to defend yourself, the more it is fixed upon you. For the bulk of mankind are on the side of the calumniator, and would rather have a thing true, than false. I believe there would be no better way, than for a man to join in, and slander himself, until the weight of obloquy, became so great, that the public would revolt, and from believing all, believe nothing. I have known this tried with success. But how can one rebut the imputation of madness? How disprove insanity? The highest excellence of understanding, and madness, like the two ends of a right line, turned to a circle, are said to come together.

Nullum magnum ingenium sine mensura dementiæ.

Great wits to madness sure are near allied;
And this partitions do the bounds divide.

Hence you will infer that I may appear rational, and quick of perception, and even just in judgment for a time, and yet be of a deranged intellect. What can I tell you, but that it is the malice of my enemies, that have devised this reproach, in order to hinder my advancement in state affairs? It is true there are some things in my habit, and manner that may have given colour to the charge; singularities. But a man of study, and abstract thought, will have *singula ities* Henry Fielding's Parson Adams; and Doctor Orkborn in Mrs. D' Arbray's Camilla, are examples of this. A man of books will be abstract, or absent in conversation, sometimes in business.

A man of books, said the Foreman of the Jury! a scholar! Ah! You are a scholar, are you. Ah, ha; that is enough; we want no more. If you are not a madman, you must be a *knave*, and that comes to the same thing. Say, gentlemen, shall we find him guilty? What say you, is he mad?

1. Juryman; he seems to be a *little cracked.*
2. He does not appear to be *right in his head.*
3. I cannot think him in his *right mind.*
4. He is *beside himself.*
5. Crazy.
6. Out of his reason.
7. Deranged.
8. Insane.
9. Mad.
10. Stark mad.
11. As mad as a March hare.
12. Fit for Bedlam.

Verdict—*Lunacy.*

The court to whom the inquisition was returned, thought it a hard case, as there was no other evidence than his own confession of being *addicted to books*, and gave leave to move an arrest of judgment; and ordered him before themselves for examination.

You are a man of books——

A little so.

What books have you read?

History, divinity.

What is the characteristic of history?

Fiction.

Of Novels?

Truth.

Of metaphysics?

Imagination.

Of natural philosophy?

Doubt.

What is the best lesson in moral philosophy?

To *expect no gratitude.*

What is the best qualification of a politician?

Honesty.

The next best?

Knowledge.

The next best?

Fortitude.

Who serves the people best?

Not always him *that pleases them most.*

It seems to the Court, said the Chief Justice, that the man is not altogether mad. He appears rational in some of his answers. We shall *advise upon it.*

OBSERVATIONS.

THERE has certainly been a great deal of *vain learning* in the world; and good natural sense has been undervalued. "Too much learning may make a man mad." It may give him a pride and vanity that unfits for the transaction of serious affairs. I would rather have a sober sedate man of common sense in public councils, than a visionary sciolist just from the academies. But solid science is ornamental, as well as useful in a government. Literary acquirements may be undervalued. A man may not be a *scholar* himself; but he may have a son that may.

"The child may rue that is unborn."

A check given to the love of letters. *The offspring of a plain farmer may be a philosopher; a lawyer a judge.* Let not the simplest man therefore set light by *literary studies.* The bulk of our youths are sufficiently disposed to indolence of themselves. It requires all the incitement of honours and emoluments *to trim the midnight lamp. The rivalship of the states ought to be in their public foundations; in producing men of letters.* Popular distrust of them ought not to be promoted. The coxcomb; the macaroni springs up in the cities: The illiterate in the country village. Legal knowledge, and political learning, are the stamina of the constitution. The preservation of the constitution *is the stability of the state.*

Political studies ought to be the great object with the generous youth of a republic ; not for the sake of place or profit ; but for the sake of judging right, and preserving the constitution inviolate. *Plutarch's lives is an admirable book for this purpose.* I should like to see an edition of 10,000 volumes bought up in every state. Plutarch was a lover of virtue, and his reflections are favourable to all that is great and good amongst men.

CHAPTER VI.

THE *madman* being out upon bail, walked about seemingly disconsolate; and fell in with a philanthropic person, who endeavoured to console him. You may think yourself fortunate, said he, that the charge had not been that you *were dead*. You might have been tumbled into a coffin, and buried before you were aware. When a public clamour is once raised, there is no resisting it. People will have the thing to be so, lest there should be no news. For the stagnation of *intelligence* is equal to the want of breath. I will venture to say that in three days, were I to undertake it, I could have it believed that the soul had gone out of your body, and that you were a walking mummy. It is only to insist upon it, and spread it, and a part will be credited; at first, and finally the whole. Thank fortune that you are upon your feet upon the earth. You are not the first that have been buried alive. On opening a coffin, the corpse has been found turn'd upon its face. In a tomb it has been found out of the coffin, and laying where it had wander'd, thinking to get out.

Good heavens! said the madman, this is enough to turn one's brain indeed. I begin to feel my head swimming. Is it possible that without the least foun-

dation, such a proposition should come to be believed? Believed; ay; and people would be found to swear to it. You have no conception from how small beginnings great things arise.

Ingrediturque solo, & caput inter nubila condit.

You have seen a *wood-pecker*. It is astonishing how large a hole it makes with so small a beak. *It is owing to successive impressions.* Since common fame has begun with you, it is well that it has taken that turn; and made you *only mad*.

If that is the case, said the *man of books*, I ought to be reconciled. It might have been worse.

CHAPTER VII.

IT may seem strange that in the present current of prejudice against learning, and learned men, the schoolmaster had not been taken up, that spoke *Latin*. The fact was, the people did not know that it was Latin. Some took it for one language, and some for another. Thus, when he accosted persons in the street, with his puzzling phrases to translate, either on account of the peculiarity of the idiom, or the elipsis of the sentence, answers were given correspondent to the mistake. Thus:

Nil admirari————
I do not understand Spanish.
Simplex munditiis————
I never learned Welsh.
Ambiguoque vultu————
It is Greek to me.
Lacrimæ rerum————
I do not understand Dutch.
Mea Valentiam, si quis————
I have never been among the Indians.
————Esse Sua
Parati————
Potatoes are very good.

As for the blind lawyer, humanity interposed on his behalf. There is a generosity in the public mind that leads them to pass by the unfortunate. The sovereign people, like other sovereigns, do not make war upon *bats*. His lectures were short, and did not cost much. The loss of money, leaves a bite behind it worse than the sting of the wasp. It is this that excites a prejudice against lawyers; and yet people are, themselves, to blame. It is their own self-love, and unwillingness to think themselves in the wrong, that leads to law. Covetousness, deceives.

O, si angulus ille, mihi foret——

I must have that nuke of woods, that rins out there. It will mak a calf pasture.

I admit that *bar oratory* is carried to excess, and there is too much of it occasionally; it is valued by the quantity, more than the quality. But there is a great deal of excellent oratory to be found at the bar. There are stamina, though retrenchments might be made.

——Cum luculentus flueret,
Erat quod tollere posses.

The great defect is, the making many points; the cat that had but one way to escape, stood as good a chance, as the fox that had a thousand. Seize the turning point of the cause; if it can be done, and canvass that. The stroke of the eye, or coup d'eil, which characterizes the great general, is the being able to see, at once, the commanding point of the field: to abandon out posts, and concentrate his forces. Why need a man be taking time to shew, in how many ways, he can kill a squirrel? If he can take him down with a rifle ball, at once, it is enough.

Oratory has no where a finer province, than at the bar. In a deliberative assembly, there is no such

scope. Questions of finance have nothing to do with the heart. No man can be an orator at the bar, that has not a burning love of justice. For it is this gives the soul of oratory. An advocate thinking merely of the fee can be no orator. The soul must be expanded by the love of virtue.

In a deliberative assembly, it is difficult to be honest. *Party will not suffer it.* At the bar a man may be honest. For, in a cause he is not supposed to speak his own sentiments, but to present his side of the argument; and with truth in his statements. The attempting to hold what is not *tenable*, is a mark of *weakness*. Why then a prejudice against lawyers? I exclude attornies that are mere *money gatherers*; or professional men, that screw the needy, and grind the faces of the poor. Such there will always be. *But nature presents nothing without an allay of evil.*

As to the blind fiddler if it should be asked, why he was not accounted mad, it was because he was not *denounced*. There is a great deal in calling out *mad dog*. Besides, the insignificance of the scraper, protected him in the republic He was so busy scraping, that he never *meddled with politics*, and this was a great help. And as he played every tune to every one that asked, having no predilection for Langolee, above Etric Banks, he gave no offence.

——Nunquam contra torrentem, brachia,
Direxit, sic octaginta annos vidit in aula.

CHAPTER VIII.

A CATTLE driver had come from the *western settlements*, to exchange at the fair, stock, for salt, iron, and *women*. In barter for the last article, a cow was given for a girl. The settler went out, in the first instance, with a rifle, a hatchet, and a knapsack. Having fixed on a spot at a spring head, the next thing was to fell saplins and construct a hut. A small piece of ground was then cleared of the under-wood, and this formed into a brush fence to inclose it. He returned then to the interior of the country, and the next summer, going out with a hoe, and a stock of provisions, on a pack-horse, he began his cultivation. Having tamed a buffaloe, or got a cow from Padan Aram, he had in due time, milk in abundance. This put it into his head to get a *milk-maid;* in other words *a wife*. The traders in this article, usually chose those of the *less opulent*, whose dress answered all the ends of fashion without the affectation. The *elbows were bare*, because the sleeves did not reach; and the folding doors of the bosom were undrawn, because they had been always open. There was no occasion for flesh coloured pantaloons; for the pantaloons were the natural flesh itself, discovered through the rents of the muslin, by the waving of the wind, like a light cloud upon a bed of air, in an April day.

When these virgins, "nothing loath," had been conducted to the bowers mantled with the natural vine, an offspring arose in a few years, such as that from whence the poets have drawn their best fictions. You will have no occasion to read Ovid's Metamorphosis, to have an image of Daphne, or Proserpine; Diana and her nymphs; the Dryads, Hamadryads, or other personages. Just cross over into these new forests and there you have them in reality: maids bathing their snowy limbs in transparent streams; climbing the mountain top, collecting flowers, or gathering the berries of the wood. Nature is here in her bloom; no decay or decrepitude. All fragrancy, health, and vivacity.

The stripling of these woods, is distinguished from the city beau; but it will not become me to say who has the advantage: whether the attitude of the presented rifle; or that of the segar in the teeth, is the most manly? Which looks best, the hunting shirt open at the neck, or the roll of muslin that covers it, and swells upon the chin? These are things to be canvassed by the curious. I am of opinion, however, that it is better to be clear sighted than purblind, and to be able to see a deer in a thicket, than to have need of a glass, before the nose to direct the steps where there is nothing to stumble over.

It can be no slur upon the descendant of a western settler, that his mother was obtained in barter, with her hair descending to her girdle; or waving in ringlets on her shoulders; and the moisture of her eye brightened with a tear at the emigration; when he considers, that, in all times, and in all places, matrimony, to use the pun of Bishop Latimer, has been, in a great degree, *a matter of money*; and the consideration of the contract not always what the lawyers call *a good consideration*, that is affection; but a valu-

able one, *wealth*. Even if the circumstance should be considered as less honourable than *a marriage settlement with forms*, and perfect equality, in the transaction; it will be forgotten in a century or two, and it may come to be doubted *whether there was ever such a thing as barter at all.*

A noise of a different kind was now heard in another quarter. It was occasioned by a brick-bat which had fallen from the heavens, or the top of a chimney; or been thrown by some one, which is just as likely, and hit the stall of an honest Frenchman, who sold hair-powder. He construed it an insult, and insisted upon knowing, what no one could inform him of; or if they could, was not disposed to do it; that is, whence it came? Diable! diable! said he, in a rage. Si j'etois, d'en la France. If I vere in my own contree—Le miserable police. Dish contree has une ver bad police.

A l'en enfer,—Foutre, Foutre, Foutre!

Parce que je suis un jacobin. I be de jacobin. Dish ish de enrage. Viil kill all de honest republican.

Ah! Messieurs aristocrats; c'est que vous voulez me tuer—C'est une terrible conspiration. It ish van terrible conspiracy.

Civility to a foreigner induced the multitude to interpose, and endeavour to pacify. But strangers are jealous, and it was an hour before he could be persuaded by some that spoke the language, to believe that the thing might have been a matter of accident. He had threatened to make a representation to the government, and demand the interposition of the executive.

There is reason to think that he had dropped it; as we have seen no diplomatic correspondence on the subject.

A seller of patent medicines gave out that he had bought them from a chymist who had *invented a new vegetable.* Discovered, you mean, said a *naturalist.* No; *Invented*, said the patent doctor. He made it himself. I have some of the seeds in my pocket. Out of what did he make it? Hydrogen; oxygen; carbonic acid, and muriate of soda.

It is beyond my comprehension: what does the seed look like, said the naturalist? Coriander seed; or mustard, said the doctor. Here is a sample of it, giving him a grain or two.

And it is out of this you make your drops, said the naturalist? Certainly, said the doctor.

And a new seed will produce new drops, said the naturalist; and perform new cures in the world.

Undoubtedly, said the doctor: what use could there be in inventing it, if it did not?

I wish he would invent a *new planet,* said the naturalist.

That he could do readily enough, said the doctor; but there are more than are good already. They shed *malign influences.*

Aye, quo' the Scotchman; there is such a thing as "*evil stars.*"

CHAPTER IX.

A COMPANY of village players were acting a pantomime. Harlequin represented a politician with the people on his back. Incurvated and groaning, he seemed to feel the pressure exceedingly.

I like burlesque very well, said a spectator. A man must imagine himself Atlas, forsooth, *with the heavens on his shoulders!* The people would walk on their feet if he would let them alone. What matters it, if by attempting to sustain them, he gets his rump broke?

That is all the thanks a patriot ever got, said a wise man.

Are not the people strong enough of themselves? said the spectator.

Strength of mind is improvable, said the wise man. Hence strength of mind differs more than strength of body. The aggregate of mind is one thing and a distinguished mind another. It is not so absurd, to suppose that one mind, in a particular case, may excel another. The social compact is a noble study. He who has devoted himself greatly to it, may be supposed to have made some progress. Why should he not have credit for his good intentions? Why make him the object of a public exhibition, because

he thinks himself the support of the community? Public spirit ought to be supported, and hints well meant, *well taken*. It is but an innocent hypocondriasis for a man to apprehend that he is doing good, by his lucubrations. That he is a pillar of the commonwealth.

See how he grins, and balances, said the spectator, speaking of the Harlequin, *because the people, in his opinion, are too much to the one side.*

It is an easy thing to turn even virtue into ridicule, said the wise man. But selfishness was never an amiable quality. And can there be a nobler effort of benevolence than to seek the public good? If one individual misses it; another hits; and the principle is salutary. It is not him that sails with the wind of popular opinion that always consults the interest of the populace. At the same time, *I am for keeping up the spirit of the people. It is the atmosphere of liberty.* And though this atmosphere *is the region of lightning and engenders storms, yet in it we breathe, and have our being.* But I speak of the angel that guides the hurricane; the good man of more temperate counsels; and who, from age, experience, or extent of thought, sees the consequence of things, and applies the prudence of restraint to the common mind in the violence of its emotions.

Why shall we censure such a man should he indulge the ambition of restraining the people; or rather of supporting them by counselling moderation. *He is sometimes the best friend that reproves.* A flatterer never was a friend. The caricature of a man having the people on his back, is an aristocratic fetch to discourage a love for the people, and a disposition to promote their real interest. This Harlequin is set on by the enemies of the people, and with a view to disparage republican exertions.

The spectator was silent.

While the Harlequin was acting *The Oppressed Politician*, as the pantomime was called, a pedlar had thrown himself into nearly a similar position; and though it may seem strange, an accidental conjunction of attitude. He had got his stall on his back; and gave out that he had taken an oath, not to set it down, until the people at the fair, had bought off all his goods. He was on his hands, and feet, and bellowing like the bull of Phalaris, affecting to be overcome, with the load of his pack. The people, out of humanity; credulous to his distress, came from every quarter to hear his complaint, and ease him of his goods. A partner was handing out the merchandize, and disposing to the customer, as fast as he could come at the articles. The back-bent man, in the mean time, in his inclined posture, was gathering up the dollars, thrown upon the ground, and putting them into his hat; not omitting, the groans necessary to attract a continuance of commiseration.

Christian people, said he, ease me of my wares, or I shall have to break my back, or *to break my oath.*

You had better break your oath than your back, said a man passing by; I have no money to throw away upon a rogue.

A rogue! Said the burthened man. If I were a rogue I could break my oath; but it is conscience keeps me here I cannot break my oath; and my back must be broke. Help good people help; buy my wares and ease me of my load.

You son of a whore, said a rude man, cannot you stand up, and your pack will fall off?

Ay but it is my oath, said the Pedlar, that keeps it on, until all my goods be bought.

It ish a tam sheat, said an honest German; he ish a liar and a rogue. His back ish not broke more ash mine. His pack ish light ash a feather; wid shilks,

and such tings, dat weigh nothing. He is a tam sheat and a rogue.

I am muckle o' your way o' thinking, said Donald Bain, the weaver; it is a' a stratagem, to get his hand in folks pockets, and wile awa' the penny. The deel an aith has he ta'en. It is a' a forgery.

It ish a devlish contrivance, said the German.

It is all de love of de monish, said a Jew. His conscience is monish; I go anoder way to de exchange dish morning.

Nevertheless credulity prevailed; and some continued to purchase.

If at the hundreth edition of this work, a century or two hence, it should be published with cuts, like Don Quixotte, and other books of an entertaining cast; the figure of the Pedlar and his pack may afford a good drawing; and the Harlequin, at the same time, with the people on his back.

The moral of the *distressed politician* is obvious to every one. It is natural for us to suppose that the world cannot do without us. O what will they do when we are gone, is the language of almost every man's heart in some way or other. I will venture to say there are chimney sweepers, who think that all will go to pot, when they drop off. Yet the world goes on its gudgeons, and all things that are therein revolve just as before!

What will we do for a general, said one to me, when Fayette deserted to Sedan.

What? when Dumourier went off said another?

He may be yet in the ranks said I, who will termi-

nate the revolution. It came nearly to pass; for the Corsican was at that time but in the low grade of what we call a subaltern.

I have reflected with myself whence it is that men of slow minds, and moderate capacities, and with less zeal and perhaps less principle, execute offices, and sustain functions with less exception, than others of more vigour and exertion; and I find it owing to a single secret; laissez nous faire; "let us be doing:" that is, let subordinates, do a great deal themselves. "He is right;" it is well; and if it is wrong, self-love saves the error: men had rather be suffered to be wrong, than to be set right against their wills. What errors of stupidity have I seen in life, in the small compass of my experience, and the sphere of my information; and these errors the object of indulgence, because there was nothing said or done to wound the pride of the employer. This is a lesson to humin pride and vanity. It is a lesson of prudence to the impetuous. The sun lets every planet take its course; and so did General Washington. That was the happy faculty that made him popular.

His fort was, in some degree, the laissez nous faire; "The not doing too much."

Yet the lovers of an art, may be excused in being hurt when they see the artist err The lovers of the public may deserve praise who wish to set the world right and do a little towards it. It is the error of vigorous minds, to say the least of it; and oftentimes, the excess of virtue.

Sometimes, it is *an instinctive impulse of spirit that cannot be resisted* Alcibiades superseded in the command of the Athenian army, but remaining in the neighbourhood could not avoid pointing out to the generals who succeeded him and who were his enemies, the errors they were about to commit, and which ad-

vice, neglecting, they were overthrown with their forces, by the Lacedemonians under the conduct of Lysander, and disgraced. Moreau though superseded by the directory, and serving only as a volunteer, stepped forward to an unauthorized command, and saved the army on the defeat, and death of Joubert.

The critic will say, what use can there be in such representations? We do not write altogether for grave, or even grown men; our book is not for a day only. We mean it for the coming generation, as well as the present; and intending solid observations, *we interlard pleasantry to make the boys read.*

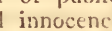
CHAPTER X.

CONTAINING EXPLANATIONS.

IN my observations on *the licence of the press* in the early pages of this book, it may be seen that I have had in view *personal*, and not *political* stricture. The difference of these I cannot so well express as in the words of the greatest orator in the knowledge of history, *Curran of Ireland*. I quote him to give myself an opportunity of saying how much I admire him. It is on *Finerty's* trial for a libel, that the following correct sentiments are beautifully expressed.

"Having stated to you gentlemen, the great and exclusive extent of your jurisdiction, I shall beg leave to suggest to you a distinction that will strike you at first sight; and that is the distinction between public animadversions upon the character of private individuals, and those which are written upon measures of government, and the persons who conduct them; the former may be called personal, and the latter political publications. No two things can be more different in their nature, nor, in the point of view in which they are to be looked on by a jury. The criminality of a merely personal libel, consists in this, that it tends to a breach of the peace; it tends to all the vindictive

paroxisms of exasperated vanity ; or to the deeper, and more deadly vengeance of irritated pride.——The truth is, few men see at once that they cannot be hurt so much as they think by the mere battery of a newspaper. They do not reflect, that every character has a natural station, from which it cannot be effectually degraded, and beyond which it cannot be raised by the bawlings of a news-hawker. If it is wantonly aspersed, it is but for a season, and that a short one WHEN IT EMERGES LIKE THE MOON FROM BEHIND A PASSING CLOUD TO ITS ORIGINAL BRIGHTNESS. It is right however, that the law and that you, should hold the strictest hand over this kind of public animadversion that forces humility and innocence from their retreat into the glare of public view —That wounds and sacrifices that destroys the cordiality and peace of domestic life; and, that, without eradicating a single vice or a single folly, plants a thousand thorns in the human heart."



It will not give universal satisfaction to have introduced the name of Porcupine, or Calender. For though no man can respect these characters; yet, consciousness of having once favoured them from other motives, will touch the self-love of some, as it will be said the one is dead ; and the other run away, and it was not worth while, or perhaps liberal, to make use of their names even in a dramatic way ; or as a character in a fable. As to Porcupine, it was said at the time, that though occasionally coarse in his language, and gross in his reflections, yet such a spirit and stile

of writing, was necessary to counteract the excess of democratic principles; that in fact, it did good. I doubt upon that head; or rather to the best of my judgment, it did harm to the cause which it was thought to serve. Indignation is insensibly transferred from the advocate to the cause.

It has been said, in the British Parliament, that "He deserved a statue of gold for the services rendered here." This is a great mistake. He did injury to the character of British manners and liberality. It produced something like a personal resentment against the whole nation whence such a writer came. An intemperate partizan in public or in private life, can never serve any cause.

But it was not with a view to pourtray this spectre of scurrility that the name is introduced; but because it suited to the counterpart, Polecat. I had thought of Panther; but Porcupine, could be drawn from real life, and was at hand.

I will not say, that before Porcupine came and since, there has not been a portion of scurrility in some gazettes, *unworthy of the press*. There has been too much; but I believe the example and the fate of this monster, and his successor Calender, has greatly contributed to reform the abuse. It is a check upon an editor, to be threatened, not with a prosecution; but to be called, *a Porcupine; or a Calender*.

It will be natural for a reader to apply in his own mind, the history of the village and its agitations, to the state where we live; and it will be asked, what ground is there for the idea, that here we talk of pull-

ing down churches; or burning colleges. There is no ground so far as respects churches; but it is introduced by way of illustration. What if any one should say, let us have no books, and no doctrines, but the ten commandments, the Lord's prayer, and the apostles creed? Give us the gospel in a narrow compass, and have no more preaching about it. This would be no more than is said of the law; why cannot we have it in a pocket book, and let every man be his own lawyer? Our acts of assembly fill several folio volumes; and yet these are not the one thousandth part of our law. Why not, at least, put the acts of assembly in *a nut shell?* Ask our legislators. What else law have we but the acts of the legislative body? The law of nations forms a part of the *municipal law* of this state. This law is of great extent, and to be collected from many books. The common law, before the revolution, *made a part of our law;* and by an act of our legislature of the 28th January, 1777, it is recognized and established to be a part of our law, and "*such of the statute laws of England as have heretofore been in force.*" This law must be collected from commentaries, and decisions. It is of an immense extent. Because the relations of men, and the contracts of parties, are of an infinite variety. But how is Turkey governed? Do the mufti require such a multiplicity of rules? No, nor the cadi in Persia; because "having no law, they are a law unto themselves." There is no jury there. It must be a profession, a business of study to understand our law: we cannot therefore burn the books of law, or courthouses, any more than we can dispense with sermons and commentaries on the Bible; or pull down religious edifices.

I will not say, that people talk of burning colleges; but they do not talk much of building them up. The

constitution provides, Art. 7. "That the legislature shall, as soon as conveniently may be, provide by law for the establishment of schools throughout the state, in such manner that the poor may be taught gratis."

Sec 11. "The arts and sciences shall be promoted in one or more seminaries of learning." We do not hear of much exertion on this head; either in the legislative body, or out of doors. But what is more exceptionable; or at least unfortunate, in the opinion of literary men, and perhaps in the opinion of some that have the misfortune not to be learned, is that learning does not seem to be in repute universally. The surest means in some places, as is said, to make your way to a public function, is to declaim against learning. It would be a libel on the body politic, if a state could be the subject of a libel, to say, or to insinuate that this is general. *But it is hard in some places.* I do not know that it is carried so far that a candidate for an office will affect not to be able to write, but make his mark; but it is not far from it; for he will take care to have it known, that he is no scholar; that he has had no dealings with the devil in this way; that he has kept himself all his life, thank God, free from the black art of letters; that he has nothing but the plain light of nature to go by, and therefore cannot be a rogue; that as for learned men that have sold themselves to the devil, they may go to their purchaser; he will have nothing to do with old nick or his agents. This is not just the language used; but it is the spirit of it. It may be a caricature, as we distort features to mark deformity more deformed. But the picture is not without some original of this drawing. To speak figuratively, as we say of fevers, it may be in low grounds, and about marshes that we have the indisposition; that is, *in the secluded parts of the country.* But so it is that it does exist.

It is true, the savages of our frontier country, and elsewhere, dispense with the use of letters; and at a treaty, Canajohalas and other chiefs make their marks. They are able counsellors, and bloody warriors, notwithstanding. The Little Turtle defeated General St. Clair, who is a man of genius, and literary education; and yet the Little Turtle can neither read nor write, any more than a wild turkey; or a water tarapin. But let it be considered, that the deliberations of the council-house, at the Miami towns, embrace but simple objects; and a man may throw a tomhawk, that holds a pen, but very awkwardly. So that there is nothing to be inferred from this, candidly speaking. I grant that Charlemagne, made his mark, by dipping his hand in ink, and placing it upon the parchment. It was his hand, no doubt; but it must have taken up a large portion of the vellum; and it would have saved expence, if he could have signed himself, in a smaller character. But what may pass, in an illiterate age, with an emperor, will not be so well received in a more enlightened period, and in the case of a common person.

It is not the want of learning that I consider as a defect; but the *contempt of it. A man of strong mind may do without it;* but he ought not to undervalue the assistance of it, in those who have but moderate parts to depend upon. It is a bad lesson to young people; who had better take a lesson from their books. At any rate, it is good to have the thing mixed; here a scholar and there an illiterate person; that the honesty of the one may correct the craft of the other.

How comes it that a lawyer in this state seems to be considered as a limb of satan? There is a great prejudice against them. It would seem to me that it is carried to an extreme. An advertisement appeared some years ago in a Philadelphia newspaper of a

ship just arrived with indented servants; tradesmen of all descriptions; carpenters, joiners, and *sawyers*. The error of the press had made it *lawyers*. It gave a general alarm; for the people thought, we had enough of them in this country already.

But if we have lawyers at all; it is certainly an advantage to have them well educated. Were it for nothing else but the credit of the thing, I should like to see an enlightened, and liberal bar in a country. It is thought that learning makes them make long speeches. If that should be made appear; I bar learning; for I like brevity: with Shakespeare, I think it "the soul of wit."

I attribute the making *long speeches*, to the taking *long notes*. When every thing is taken down, every thing must be answered, though it is not worth the answering. This draws replies long into the night; and we labour under the disadvantage of not having woolsacks to sleep upon as they have in England, while the council are fatiguing themselves; or at least the juries.

The prejudice against lawyers stands upon the ground with the prejudice against learning. *The majority are not lawyers, or learned men.* A justice of the peace is a deadly foe to a lawyer; for what the one loses, the other gets. The chancery jurisdiction of a justice is hewn out of the jurisdiction of the courts of law, and abridges the province of the lawyer. It is well if it does not edge out the trial by jury. How? This mode of trial is retained by the courts of law. But who are at the bottom of this hostility to the courts of law. I will not say the *holy army* of justices; though some may break a spear at it. I believe there are of them, that think their jurisdiction is sufficiently encreased; *but there are others who would not object to a little more.*

In China there are no courts of law or lawyers; all justices of the peace. They call them *Mandarins*. In capital cases, there is an appeal to the emperor. *There is no jury trial there.*

A limb of the law, is a good name for a lawyer; for we say a limb of Satan; and a lawyer in a *free country* is the next thing to it: a thorn in the flesh to buffet the people. There is freedom enough in the constitution; why need we be afraid of aristocracy in practice? Every man is brought up to the bull-ring in a court of law, be he rich or poor; but the scheriff, in Arabia, who is a justice of the peace; not like our sheriff here, though it is spelt the same nearly, can *summons no jury*; at least he takes care not to do it. But the governments of those countries, are arbitrary, not free. It is an astonishing thing to me, that *a free government, and the exclusion of lawyers, cannot well be reconciled.*

How can the overthrow of a judiciary tribunal, affect *liberty?* No otherwise than as it militates against a branch of the government. Take away a branch from a tree, and the shade is reduced. What is a branch that is born down by the rest? But suppose the judiciary branch goes; the legislative and executive remain. There are two sprigs to the legislative branch. Which is strongest? That of the *house of representatives.* Is there no danger of this out-growing the other two? There is half a sprig in the executive. But the great sprig of the house of representatives is "the rod of Aaron that will swallow up the other rods." There is a talk now of abolishing the senate. That will be talked of, unless it becomes an *enregistering office.* It is hoped that will never be. In this I allude not to any disposition that has yet shewn itself in the house of representatives; but to what I have heard broached out of doors.

Despotism is not a self-born thing. It has its origin in *first causes*. These not perceptible, like the gas that produces the yellow fever. Why call out against the fever? It is the gas that is the cause. Whence sprung the emperor that now *afflicts the French?* From the *mountain* of the national assembly. It is the madness of the people that makes emperors. They are not always aware when they are planting *serpents teeth*. Reflecting men saw the emperor, in the insurrections of Paris; in the revolutionary tribunals; in the dominancy of the clubs; in the deportations to Cayenne. Whether it springs from the seed, or grows from the plant; is oviparous, or viviparous, *despotism is not of a day*; it is of gradual increase. Will not the people give him credit that can point out to men, *where a germ of it exists*.

In what is hinted at, in several pages of the preceding chapter, of hostility to laws and a disposition to overthrow establishments, and judges, I have in view, not the proceedings of a public body, but the prejudices of the people. It is talk out of doors that I respect. And this is the fountain which is to be corrected. Representatives must yield to the prejudices of their constituents even contrary to their own judgment. It is therefore into this pool *that I cast my salt. It is to correct these waters that I write this book*. I have been in the legislature myself, and I know how a member must yield to clamours at home. For it comes within the spirit of the principle, *to obey instructions*.

In the song which I have put into the mouth of O'-Dell, I have nothing else in view but to give a picture of the excess of the spirit of reform. It is taken from the life; for though not in verse, yet I have heard similar sentiments expressed by the *uninformed*.

THE talk of *abolishing* the courts, and the judges, is a language which I put into the mouth of Tom the Tinker; yet is more general than is imagined. I am afraid it may affect ultimately the democratic interest; to which I feel myself attached; for I aver myself to be a democrat. No Perkin Warbeck, or Lambert Simnel; but a genuine Plantagenet. Hence my concern for their honour and existence, which can alone be supported by their wisdom, and their justice.

Judges are impeached, and violent persons will have them broke before they are tried. But accusation and condemnation are not the same thing. It is not on every bill that is found by a grand jury that there is not a defence.

There is nothing to be collected from any hints of mine that I arraign the justice or policy of the impeachment; much less, that I wish to see it quashed, or withdrawn. I have it only in view to arraign preconceived opinions, and *the forestalling the public judgment*.

Sublime is that tribunal that is to *judge judges*. The highest judicature of the body politic. It presents an awful, but majestic spectacle. Our senators, in this capacity are the representatives of heaven. I see them seated on a mount "fast by the throne of God;" the stream of justice issuing at their right

hand; full and equal in its current; crystal in its fountains, and giving vegetation to the groves and gardens on its borders: The stream of injustice at their left, bursting like a torrent of enflamed naptha, scorching and consuming all before it.

It lies with this sublime court to give its lessons of impartial justice to the subordinate judiciaries. I rejoice in this power of the constitution. I shall submit to its decisions.

CONCLUSION OF THIS VOLUME.

IT occurs to me, that I shall have all the lawyers on my back; because I have said to them, as was said to the Pharisees, "Use not vain repetitions as the heathens do: for they think they shall be heard for their much speaking." By the bye the heathen with us, that is, the savages of North America, are not long speakers. They call it a talk, it is true; but it is raised above a common conversation. And they are not tedious speakers; short, clear and pithy, are the characteristics of their eloquence.

The heathen—are the Gentile nations here meant, that bordered on Judea? or does it refer to the redundance of the Greek and Roman eloquence? The *loquacious Greek* was proverbial. When a language becomes copious, the speakers become verbose.

But the lawyers will say, "how can we help it? The client will have talk for his money. He purchases his plantation by the acre; he sells his wheat by the bushel; or if a shopkeeper in the city, he measures tape by the yard. Omnia deus dedit, says the Latin scholar, Numero, mensura, et pondere. He will have quantity, let what will go with the quality. For of that he is not a judge.

I admit it is difficult to get a man to understand that the cause is oftentimes won, with judgment and silence, like the game of chess. All depends upon the move. A client will say, you ought to refund me something; or take less than I promised. You had no trouble. Or he will go away, and say, lawyer M'Gonnicle took twenty dollars from me, and did not say a word.

He was six hours on his feet, says a man coming from the court. This sounds well and it looks as if the man was a great lawyer. So that self-preservation is at the bottom of long speaking. Or is it in accommodation to false opinion.

I admit something in all this. An advocate will occasionally find himself under the necessity of saying more than is necessary, in order to save appearances, and to satisfy his client who is not like the court and jury, weary of the harangue. But this is not the great cause of prolixity. It has a deeper root; it is a false stile of eloquence that has been introduced, and is become fashionable. I have asked chief justice Shippen, if he could recollect and trace, the origin and progress of it. Is it imported, or of domestic origin? He thinks it was introduced by John Dickinson, who was an agreeable, but a lengthy speaker. At nisi prius; or at bar in England, there was no such thing. But whether there is or not; is of no account. The thing ought not to be. Because it will lead to the loss of the *jury trial.*

A lawyer must say every thing that his ingenuity can suggest on the subject. The strongest reasons are not sufficient; he must bring up the weaker. After throwing bombs, he must cast jackstones.

There is more sense in the common mind than is imagined; and close thought in strong words will be understood, and a few will suffice.

The bar of this state is said to excel in legal knowledge; but certainly is behind none in liberality of practice; and delicacy in argument. In practice, no catches, or as the common people call it, snap judgments; lying in wait at the docket; making surreptitious entries, and giving trouble to get slips set right. This the meanest lawyer can do. A rat can gnaw the bowstring of Philoctetes. The drawback in the opinion of foreigners, and the feelings of the people here, is the length of speeches.

I will not say that hence arises wholly the prejudice against lawyers. A prejudice against the liberal professions, exists in all countries; or they are made the subjects of invective from the occasional abuse of their privileges. "Woe unto you lawyers," is a scripture expression, and applies to the priests among the Jews who were the interpreters of the law of Moses. The physicians of all countries are said to kill people. And as to advocates they get no quarter in any country. Wits will exclaim even without ill will. Don Quevedo, a Spanish writer, in his vision of hell, tells us, that he observed a couple of men lying on their backs asleep in a corner, with the cobwebs grown across their mouths. He was told these were porters, and had been employed in carrying in lawyers, but there had been no occasion for their services, for a century past, these cattle had come so fast of themselves, that the carriers had laid themselves up, in the interval of business, to take a nap there.

As to the length of speaking, how can it be helped in advocates? Not by any act of the legislature, constitutionally, *at least in criminal cases*; for it is provided by the constitution that in criminal cases, the party shall be heard by himself and his counsel. But this provision was not meant to exclude the right in civil cases, which existed at the common law; but

because in capital cases, in the courts of criminal jurisdiction in England, counsel was not allowed to the accused, except on law points, arising on the trial. In civil cases the legislature may change the law or modify it; but I am not able to say, what regulation by an act of the legislature, might be expedient; or what practicable by the courts themselves. The safest and most easy remedy would be in the bar themselves; cultivating a stile of eloquence of greater brevity, and endeavouring to be more laconic in their speeches.

They are not aware that this length of speaking has become unsufferable. That resentment against the bar on that account, has been accumulating, and is now ready to overwhelm their existence. It is a great cause of that obloquy against the proceedings of the courts of justice, which is heard in this state. Delay is the effect; and delay is an obstruction of justice.

But delay is the cause of loss to the lawyer. It is a vulgar idea, but founded in mistake, that lawyers delay causes for the sake of fees. It is their interest to have speedy trials, as much as with merchants to have quick returns. It is the interest of the advocates that I endeavour to promote, in suggesting a reform in the length of pleadings. I am endeavouring, in the scouted language of some reasoners, "to save the lawyers from themselves." It is on this principle that I attempt to school them a little on the point of oratory at the bar.

Some one will say, that I but affect to treat them thus cavalierly. That it is like the case of an Indian in a skirmish, of which I have heard, on the west of the Ohio, who on his party being defeated, pursued one of his own people, with his tomhawk lifted up, ready to strike, and was mistaken for a volunteer.

In the heat of the affair seeing him alert, and pursuing, they thought the one before him was in good hands, and they let them both escape.

To apply the story. It may be thought that I affect to school the profession, to save it from arbitration laws, in the spirit of what has been called the *adjustment bill*. I am not one of those with whom it has been clear, that the adjustment bill passed into a law, would do any injury to lawyers. It might winnow off some of the chaff, but better corn would come to the mill. I have no idea that any thing can hurt the profession, but the overthrow of liberty. Council to advise, and an advocate to speak, will be always wanted where *the laws govern and not men*. Rules of property and contract in civil cases, and the principles of law in matters of life, liberty, and reputation, will always call for the assistance of the head, and the powers of speech, in a republic.

My concern in the case of innovations, doubtless meant for improvements, has been that the experiment would not shew wisdom in the framers; but, on the contrary, discredit the administration by which they had been introduced; or, if tolerated, and approved, would lead to aristocracy, and despotism in the end. This by gradations insensible, as opiates unnerve the constitution. It would take a volume to trace gradatim, how, and why this would be brought about; and after all it may be a spectre of the imagination. Let the wise determine. Were I a practising lawyer, as probably I may soon be, I should apprehend little from it on the score of profit, and loss to the profession. My idea is, that eighteen months would put an end to it, and it would, by that time, have sowed a pretty fruitful field of controversy, that would last as many years. As to the *constitution*, it

seems to be in vain to talk to the people about it, *when it is in the way of what they wish, and must have.*

But hinting as has been done with regard to the exuberance of oratory at the bar, it is to be taken subject to the exception of cases which cannot be considered in a few words; either where the facts are complicated, and the evidence extensive; or where a point of law embraces an extensive scope of argument. The elucidation in some cases, must be drawn from the law of nature; the law of nations; the municipal law. Statutes, commentaries, and decisions must be examined at full length.

It is not half a day, or a day, that will suffice always, to do justice to a question. The court themselves will stand in need of the careful preparation, and the minute investigation of the counsel. The bringing forward lucidly, and arguing a matter well, is a great help to a court. It is doing for them, what they would have to do for themselves, without their assistance.—The labour of the counsel is the ease of the court. Many a midnight thought is expended by the laborious lawyer, of which the court feels the benefit, in the light which he throws upon the subject of the litigation. It is the

——Rudis indigestaque moles,

of the unprepared that wastes the most time.

It is the highest effort of a strong mind to condense. Having taken a comprehensive view of the whole horizon of the subject, the man of talents *collects the principles that govern and illustrate the case.* To state and press these, is the effort of the great orator. To reduce to generals, and bring forward the result.

But in order to speak short upon any subject——*think long.* Much reflection is the secret of all that is excellent in oratory. No man that speaks just enough,

and no more, ever wearies those that hear him. And that is enough which exhausts the subject, before the patience of the auditory.

There is such a thing as alarming *the patience*. A speaker branches out his subject. It is all proper that this should be done in his own mind. It is necessary that he should have a system of argument, and a certain order of arrangement. But I do not approve of an explanation of this. I remember the alarm which I have felt listening to a speaker in the pulpit, when he has spread out the table of his doctrine into heads and sections. When he had done with the first, that is well, thought I. But then, there is the second head; will he be as long upon that? Now if he had said, This point of doctrine arises from the text, I would have heard it out without fore-casting in my mind that the ulterior divisions were to come yet. It is not in the language of nature to have such compartments. It is well enough in a book of didactic dissertation. For there is one can lay down the volume, and amuse himself otherwise when he is weary. The Indian in his talk has an order in his mind, and pursues it by the wampum belt, as the Catholic says his prayer by his beads. It is not the secret of persuasion, which does not steal upon the heart; and whatever the effect in matters of the judgment, may be the annunciation of method; it is unfavourable to all that interests the heart, and governs the imagination. You will see no such thing in Demosthenes or Curran. Cicero has something of it, but I always thought it a blemish. Ars est celare artem.

There is no such thing in the works of nature. Artificial gardens sometimes present that view, but these are not in the best taste.

The hills and mountains, vales, and extensive plains are dispersed with a beautiful variety. The stars of

the heavens are not at marked distances. There is a concealed regularity, order and proportion in all that affects. The mind remains cold where there is nothing that surprises and comes unexpectedly upon it.

END OF THE FIRST VOLUME.

MODERN CHIVALRY.

MODERN CHIVALRY:

CONTAINING THE

ADVENTURES OF A CAPTAIN,

AND

TEAGUE O'REGAN,

HIS SERVANT.

BY H. H. BRACKENRIDGE.

QUID VETAT RIDENTEM DICERE VERUM.....HOR.

PART II.

VOLUME II.

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MODERN CHIVALRY.

CHAPTER I.

AS the Captain was lounging through the fair, he saw a tall thin man, of a lean visage, and sallow complexion, talking at a stall with a chapman. He had under his arm a piece of new, or, as it is called, *green linen*. In fact he was a weaver, and had linen claith, as he called it, to sell. For he was what we call a Scotch-Irishman, and of the name of Oconama, which is not a Scotch-Irish name ; but an aboriginal Patronymic ; nevertheless it came to be his name ; perhaps, by the mother's side.

He had on him what we call a *spencer* ; that is a coat with the tail docked ; though some have this kind of garb made so in the first instance ; that is, a juste au corps, or jacket to go over the coat, instead of being under it ; so that it seems to be *but a half-coat*.

Now Oconama is pronounced with the final vowel soft ; and hearing it so pronounced, the Captain took it to be *oeconomy* : especially as he saw that his dress corresponded with the designation ; and the small scratch wig on his head, but half covered his brown

hair, which was seen underneath, supplying the defect of covering by the caul, which was piss-burnt, and had but a few straggling hairs on the top of it, which was as bald otherwise, as the pate of a Capuchin.

Oeconomy, said the Captain; for such I see you are; and I might have known you, even if I had not heard your name; I am glad to have fallen in with you; having often heard of you, and wishing to see you, and to be acquainted. There was said to be great want of you a few years ago, under the presidency of John Adams, who though a good man, yet it has been understood, did not sufficiently consult you. I am glad to hear that you are in request with President Jefferson, though it may be as some say, that he consults you too much, and that you carry things too far.

Adams! Said O'conoma. I was not in the country when Adams was President. The more the pity, said the Captain. There was great want of you. You were much called for. There is a want of oeconomy, said one. There is no oeconomy, said another. But I am happy that you are now here. Great things were expected from you, and great things you have done. But there are good men who think, to use their own phrase, that we are oeconomizing overmuch, and that by the weight of your reputation, you have misled our councils, in some particulars. A judiciary law was said to be repealed on *the principle of oeconomy*. The *constitutionality* of the repeal has been questioned, much more the *expediency*. The suitors are obliged to come from the most remote parts of a state, to some one place where the circuit court is held, which under that law was brought, if not to their own doors, yet at least nearer home. *The Constitution must be amended as to the jurisdiction of*

the Federal Courts; or a like law must be re-established. The army has been reduced on the *principle of oeconomy*; the marine also Our armed vessels have been sold off, and turned into merchantmen. Hence a petit guere with the Bashaw of Tripoli, for several years, whom we could have put down, and burnt up like a wasps' nest, if we had kept our ships, and men together. But I will not say, that there was not good reason at the time, to justify the retrenchment, I mean that appearances were such as to justify it. It is easy to judge after the event, and though I think the thing was wrong, yet I do not arraign the motive. The public mind leaned so strongly to retrenchments, and called for it so loudly, that it was not easy to resist it.

But the spirit of oeconomy is said to have invaded the legislative part of the administration, and to be about to fall upon the executive itself in *the reduction of salaries*. And not the administration only of the general government, but of the states, confederate, and subordinate. For imitation is the faculty of man; and we imitate those whom we respect. Hence it is, that we every where hear of oeconomy. An old woman cannot set a hen to hatch but on the *principle of oeconomy*.

It is a check to all improvement in any system; the judiciary, for instance, that it does not consist with *oeconomy*. Now query, Mr. Oeconomy, whether this may not be carrying things too far. I know well that fault will be found with all measures. For all systems have their draw-backs. This world that we inhabit has its physical and moral evil though the work of infinite wisdom. What perfection then can we expect from man? But it is well to weigh, and to know whether what is attempted, comes as near as may be to the expedient. This is all I have in view. You

have been praised, and you are blamed. And so it has been with all men in all ages who have endeavoured to serve the public. Their integrity, and their exertions have not been sufficient to secure them against obloquy.

Romulus et liber Pater, et Cum Castore Pollux,
Post ingentia facta, Deorum in templa, recepti,
Dum Terras, hominumque colunt genus, asperabella
Componunt, agross assignant, oppida condunt;
Ploravere suis non respondere favorem
Speratum meritis ———

Of this Smart's translation is as follows;

"Romulus, and Father Bacchus, and Castor and Pollux, after great atchievements, received into the temple of the gods; while they were improving the world and human nature; composing fierce dissensions, settling property, building cities; lamented that the esteem they might have expected, was not paid in proportion to their merits."

The weaver, at this rhapsody, especially the last part, the Latin sentence, stood amazed, with his eyes staring, and his mouth open. He took him for the madman of whom he had heard, and who had been said to have been tried that day; and, on the principle of self-preservation, if not of oeconomy, began to recede, and to ensconce himself behind the Pedlar, who accosting the Captain took upon him to explain.

It must be a mistake of the person, said the chapman This is not the man you take him to be.

Who is he then? Said the Captain. It is not Gallatin;* for Gallatin does not wear a wig, as I have understood, but his own hair; and Madison † is a small man.

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* *The Secretary of the Treasury.* † *Secretary of State.*

It is neither Gallatin ; nor Madison, said the Pedlar ; but an acquaintance of mine from the county Wicklow in Ireland. He has been in the country about two months, and has never seen Jefferson ; or given him advice to do good or harm.

I ask his pardon, said the Captain. Calling him Oeconomy, I took it to be him that is said to be at the seat of government, helping on with retrenchments and expenditures. His garb corresponded with his designation, as he seemed to *cut his coat according to his cloth ;* and had curtailed the dimensions of his periwig, substituting a little of his own hair ; or rather letting it grow, to make amends for the want of caul, which bald as it is, come but half way down his occiput, and *leaves his neck bare.*

OBSERVATIONS.

IT would be a gratification to myself, and it might be of use to others, to give some notes of *political history in this state.* Those *just grown up;* or lately come amongst us, from abroad, would better understand, why it is that *democracy* has been occasionally the order of the day; and again put down. It has always had numbers on its side, and yet has not always possessed the administration. I use the term democracy, as contradistinguished from the aristocracy; that is a union of men of wealth, and influence.

In the state constitution of 1776, the democracy prevailed in carrying a *single legislature;* but this laid the foundation of their overthrow; because experience proved that it was wrong. "*Wisdom is justified of all her children.*"

The constitution of 1776, gave way to that of 1790 and the aristocracy obtained the ascendancy; or rather having obtained it, they brought about a convention, and carried the constitution of 1790; *which is the present.*

But connecting themselves with the errors of the administration of the federal government, in 1797, 1798 they lost the state administration, and the *democracy* prevailed.

Five years has it retained the administration; and will, an interminable time, provided *that wise measures are pursued, and justice done.*

This, I am not addressing to the legislature, or executive power of the government; but *to the people.* It is for them my book is intended. Not for the *representatives* of a year or four years, but *for themselves.* It is Tom, Dick, and Harry, in the woods, that I want to read my book. I do not care though the delegated authorities never see it. I will not say, it is to their *masters* that I write; for I reprobate the phrase. I have no idea of masters, or *servants in a republic.* But it is to their constituents that I consider myself as applying, in the observations I make. At the same time professing, which, *after what has happened in my case, is perhaps necessary,* that I have not the slightest disrespect for the representatives *that have been,* or may again be; I only wish them to support a character in their deliberations, which the *world must approve.* Or rather I wish the *democracy* supported which can be done only, on the basis of *wisdom,* which contains in it truth, and justice.

Error is always weakness. Integrity cannot save error. It can only reduce it from misdemeanour to frailty.

In what is the democracy likely to err? How do men err when they run from one extreme to another? There may be *an extreme in oeconomy,* as well as in expenditure. The *oeconomists* are a good description of persons; but they may not always be the *illuminati.* There is such a thing as *oeconomy over much.* A man of spirit, and enterprise in his private affairs, will be sensible that it is no oeconomy to stint his labourers of wages; or to higgle in his bargains. More depends upon judgment, and expansion of mind in his plans, than in niggardliness in his contracts. Lay-

ing out well, brings in, *and improves his* plantation. The federal government, in the opinion of some, taxed too much, or injudiciously. We will not tax at all. Rather than tax, we will bend our minds, to reduce *offices and salaries*; at a time too when the purchase of commodities proves to us, that the value of money is reduced, and the price of living advanced one half. *The jurisdiction* of the justices of the peace proves this; for it must have been a good deal, on this ground, that it has been increased from fifty, or thereabouts, to *one hundred dollars*. But it is not merely the reduction of offices and salaries, that is the evil, but the wounding a principle of the constitution; or *straining a principle*, to get quit of these: for, it cannot be dissembled, that it is broached in many places, to overthrow the whole judiciary establishment, and put men upon the bench that will take the honor of it, for the compensation. This might look well at the first glance; but it would ultimately destroy the democracy by which it was accomplished.

But suppose nothing of this, in contemplation, or attempted; who are they that oppose an amelioration of the judicial system, competent to an administration of justice, by an increase of the districts, or the judges? The *oeconomists*. Though, it can be demonstrated, that a pound is lost to the community, where a penny is saved. But it does not come by the way of *direct tax*; but insensible filching, in the way of *the expences of attending courts*.

But the *justice of the thing is more*; the dispatch of trial, and decision. The delay of justice, is the denial of justice. It would be for the credit of the democratic administration, to have just ideas on this head. *There are amongst them who have; but it is not universal*. The fact is, that it will not always be borne; *and their adversaries will triumph*.

Were it not for the name of the thing, I do not see that a judge in this state, need care much about being broken; for it is but a pack-horse business at present. It requires as much sitting as a weaver, and as much riding as a carrier of dispatches. I often think of the language of Job, in more senses, than one, "my days are swifter than a post."

In riding from one court to another, it is necessary to be at a certain point by a certain hour, though rain falls, flood swells, and roads are bad—Even in good weather there are bad roads Why not make good roads? Here again the *oeconomists* present themselves. The roads are left to the *townships*; even the *great state roads*; and no improvements of a public nature are attempted, or thought of: *oeconomy* is the order of the day. It would seem that democracy had no soul; that it views things on a narrow scale. That it has not the knowledge, or the ambition "to make a great state out of a small." I would wish it to stretch a little in its views, as to the amendment of the roads, and the improvement of the judicial system. But this is not a building up, *but a pulling down time.*

I know what it will pull down eventually; the *democracy.* People will be as much dissatisfied, by and by, with *oeconomy* resisting all improvements, as they were of late with *provisional armies*, and a house tax. A *false oeconomy*, not resisting merely the accomplishment of public objects, but sacrificing to itself the *establishments that do exist.* It is the Moloch that is calling for the constitution that it may devour it. It is to this idol that the third branch of the government must be offered up in one shape or another. For what is it, whether a judge is broke upon the bench; *or has his neck broke upon the roads?*

Oeconomy may save the representatives for the time being until by feeling, the people come to have a sense of the policy. But, it will affect the credit, of the democracy; and in the end bring it down. It is a paralytic that will terminate in a convulsion of the public mind and change the administration. It is in the nature of things that this will be the case; *for great is the force of truth, and it will prevail.*

In what I have said on this head; I will acknowledge that I have in view, chiefly that oeconomy which resists an improvement of the judicial system. Though probably before this is read, it will not be of consequence to me but as a citizen, and perhaps not even in that capacity, whether it is improved or not.

CHAPTER II.

I FEEL a disposition in writing this bagatelle, to introduce something solid, and therefore have contrived to bring about a conversation on the part of the Captain, with the principal of the college. It was on the subject of education: not education generally, but particular points of academic institution.

I do not like, said the Captain, the enjoining, or imposing, to use a stronger term, tasks of original composition. It is well to instruct in grammar, and the elements of writing so far as respects arrangement, perspicuity, and the choice of proper words: and in this I have but one rule, which is to think first, and endeavour to have a clear idea, and then to put it down in such expression as to be best understood. The definition of stile given by Swift, nothing can surpass; "proper words in proper places." And for this purpose translation is the best exercise. It is absurd to require of youth thoughts before they have any; or at least, correct thoughts. Help me out with my description; assist me with my theme, says one. What shall I do for an oration, says another? Is it ever a complaint in common life, that men want tongues? Are you obliged to urge them to write in newspapers? The difficulty is to keep them from it.

They will be talking and scribbling before they know what to say, or to write. The seven years silence of Pythagoras was a noble institution. What an excellent improvement it would be in our public bodies, that a man should serve, say two years, before he should have leave to open his mouth, save just to say aye or no.

But we begin our system of errors at the very schools. The student must compose. It is true we have improved upon the system of the last century in this particular; and do not now insist upon it that it shall be in verse. It is sufficient that it be in prose. I mean that making latin hexameters, or english hendecasyllables, are not now a task. But it still remains that the boys must write. And yet the poet which you put into their hands says,

Recte scribendi, sapere principium est, et fons.

Good sense is the foundation of good writing.

I do not like much, your declaiming in colleges; though doubtless the ancients had this practice;

——Ut inter discipulos plores, et declamatio fias.

But is this arbitrary speaking calculated for any other purpose, but to make a pedant? You must stretch out your hand at this; you must draw up your leg at that. Here you must say Ah! There, Oh! It is the feeling of the heart only that gives attitudes; it is passion only that can swell out the breast, or agitate the members. I have seen an old woman angry, or moved with grief, play the orator very naturally. The emotions of her spirit, distends the arm and stretches out the muscles. She clenches her fist at the proper period, and lays her emphasis upon the proper words. She says Oh! or Ah! in its proper place, without being taught it by rule, or pedagogue.

Passion blows a man up like a bladder. He grows as big as himself. His hair rises on his head, and his

breast heaves. Will rules give a man passion? Will a man that feels, stand in need of rules?

I perceive, Captain, said the Principal, that you are no slouch at supporting a paradox. Polybius tells us, that the Romans exercised themselves on shore, learning to keep stroke, and to feather their oars, while their gallies were building, to encounter the Carthagenians, in the first Punic war. Can it be of no use to stretch the joints a little even without passion? Or cannot passion be called up by the exertion of the speaker, even in a feigned case? It is something to accustom youth to stand up, and face an audience. At all events, it is an amusement, and it can do no harm to the boys to spout a little. At the same time it is no proof of eminence in real speaking that the youth spouts well. For that as you say, must come from sentiment and feeling. But there is something in a habit of declaiming, at least to assist the voice and gesture. But I have always thought it preposterous in our *Young Ladies Academies*, to put little misses forward to speak. I have thought it an indelicacy to suffer them to declaim. It is unnatural; for what occasion can they have to harangue?

I am of the same opinion, said the Captain. I could never approve in a family to see a little miss called up by a silly mother, or weak father, to hold out her hand, and speak a passage which the blockhead of a teacher had instructed her to commit to memory. It is indelicate, and out of nature.

To what assists the memory, I have no objection. But for this purpose, there are sentences in Scriptures, in the Proverbs of Solomon, especially; the Gospels, and the writings of St. Paul. In Shakespeare, are fine thoughts drawn from human nature; moral observations consolotary, or instructive. Let them be got by memory, because recollected, they will guide,

conduct, or embellish conversation. These would be a good substitute for catechisms, containing points of faith, which the young mind cannot comprehend; and which the divines dispute about themselves. Catechisms might be laid up for grown persons. The fact is the early catechumeni, were all grown persons. It was not until the time of John Knox that they began to teach children the dogmata of the scholastic theology. The Jews had it in command from Moses, to teach their children sentences; or precepts of the law. They were taught to bind them on their arms, or about their necks in slips of writing which they called *phylacteries*. But do we hear of teaching them the Talmud of Jonathan, or the Targum of Ben Onkelos? The commentaries of Rabbi David; or Eben Ezra the Jew, never superseded, amongst them, the precepts of the decalogue.

I had no idea, Captain, said the principal, that you had so much knowledge of the Pentateuch.

A little only, said the Captain. But I go on to observe that in Turkey, they commit to memory only the moral lessons of the Alkoran; or of the Misnud in Persia. The Vedam of India is a book chiefly for the Priests; and so with us ought to be the greater part of the *confessions*. At least mature years, only can digest them.

But these dogmata planted in the memory, grow up to fruit in the understanding afterwards, said the Principal.

That is, said the Captain, commit to memory now, what you will understand afterwards I would have memory and understanding go together. But this leads me to *say a word*, on memory, as you divines say when you preach. For you talk of saying but a word, when before you are done, you make a sermon out of it. Memory is a thing improvable, and ought

to be improved, I do not therefore approve of this thing of *taking notes*. You read your lectures, and the student must take notes. It spoils his hand; for trying to keep up with you he writes fast, and runs into scratches like short hand, or the Coptic alphabet.

Sometimes the student copies the lectures, to a great waste of time, and unnecessarily; for learned professors thought they had done a great deal in getting them out of manuscript into *print*; and now the labour is to get them out of print into *manuscript* again. But the principal disadvantage, is the neglect of the *memory*. And when a man gets a thing in his book, he neglects to put it in his head. Let the thing rest in the brain if possible.

Pedagogues that teach the first elements of arithmetic will instruct the youth to work their sums, as they call it, on the slates; and afterwards put down the figures in their books. This is to take home to shew to their parents, that they may seem to be doing something, and the master get a good name. But it is a loss of time and of paper.

The same pedantry is carried up into higher institutions; and the classes copy lectures, to make themselves, or others, believe that they have been doing something.

Just at this instant a gun went off, and thinking somebody might have been shot, they broke off the conversation.

OBSERVATIONS.

IT may be asked, of what use, a great part of the preceding book? Some things may have a moral and carry instruction to the mind. But a great part can have no meaning or effect; farther than to raise a laugh, or to make a person smile for a moment. That itself is something; and may conciliate the reader to what is more solid. An ingredient, not in itself savoury, may give a relish to substantial good. Asafoetida gives a flavour to a beef-steak.

Let me get a man to laugh, and I put him in good humour. The whole book from beginning to end, has a moral, which, if any one has not found out, let him read again.

It may argue a light airy mind in the writer; and yet, these things are sometimes the offspring, as in the present case, of a mind, far from being at ease; on the contrary, it is to get ease, and allay pain, that it is written. Pain of mind is relieved by an abstraction of solid thought. The early paroxism of deep grief, may be incompatible with a playful fancy; but gradually and insensibly, the heart-ache may be cheated of its sensations. What else effect has conversation or music? Neither of these can assuage great pain; or torture; but will be felt to alleviate, in a lesser degree of pain, of body or mind. The mind is drawn off, and kept from reflecting. We

use laudanum to allay acute bodily pains ; and it gives a pleasing delirium, and insensibility for a time. But in the case of mental suffering, it is much safer to attack the imagination by an intellectual paregoric. There is less danger that the use will grow to excess, and induce habit.

Scarron wrote his comical Romance under great bodily pain. But ease to the mind has been more frequently sought by the amusement of writing. It is a fortunate thing for the writers, that it keeps off hunger ; for many of them in the garrets of cities, if we may believe themselves, while they lived, or their friends after they are dead, are reduced to short commons. Certain it is, that the occupation of the mind saves food. Literary men, are in general but small eaters. The spirits are exhausted in the thought of the brain, and are less active, in the juices of the stomach. So that from a man's eating, I can give a pretty good guess, whether he thinks, or speaks most.

But it may be said, this book might have been written, from the motive suggested; but why let it go to the press ? Because there is a pleasure in seeing what you have written appear in a book ; and the correcting the proof sheets as you go along, pleases. It is on the same principle that the child is delighted with its baby house ; the grown person with the gratification of his fancy in architecture or gardening. All the objects of men, are in great part to please the imagination. Utility is but one half. I admit at the same time, that he who comprises both, hits the nail on the head, and carries all votes. But it is even something to attain one of these. This much it may suffice to say, as an apology for the publication.

But it may be said, why not cast the salt of your pleasantry upon some substantial food to the mind of a young person, and not upon vapour, which constitutes little nourishment. You would seem to be a moralist; and to have some knowledge of practical philosophy. Hence we should expect in your page, observations conducive to regulate life, and to form manners. If for instance you had taken a youth from his early age, and conducted him to manhood, insinuating by example, or precept, the best lessons, it might have been a school book. I answer; there has been a great deal in this way already; and my mind led me more to give lessons to grown people. Was I to set myself about such a work as is suggested; I do not know that I could mend the matter I believe, I would change a little the system of education; in one particular; but it might not be for the better As already hinted by some things put into the mouth of the Captain, I could make it a principal matter to form the heart to *a republican government*. And in order to this; keep out of view all that nourishes *ambition*, the poison of public virtue. "In honour preferring one another," is an apostolic, and christian injunction. But it is as wise in philosophy, as it is true in religion. Honour is the principle of monarchy, distinction of rank, titles, dignities. In the American republics, we retain yet a great deal of the spirit of monarchy. The people are not aware of the *phraseology* itself, in some instances. When an individual solicits a vote, his language is that he will *serve* the people. They take him at his word, and when he is sent to a public body, he is called, their *servant*. He goes farther himself, and will talk of the *majesty* of the people.

No disgrace is supposed to attach itself to the soliciting votes, any more than petitioning the *monarch*

for a place. This is not in the spirit of a republic. It is contrary to the nature of it; it is subversive of it. But I would begin at the foundation by inculcating, the folly of coveting a public appointment. The private interest of a man is better cultivated by staying at home. The first lesson I would give to a son of mine, would be to have nothing to do with public business, but as a duty he owes to his country. To consider service in civil life, no more to be desired than service in *the military*. In this last, there is danger of rheumatism, and ague; or of a wound, or of death in battle; but in civil trusts, there is danger of obloquy and disrespect.

But an individual that accepts a trust, is no *servant*. He is an agent; a delegate, a commissioner. Nor are a house of representatives *the people*. Nor can *majesty* be predicated of them. It is a monarchial phrase, and I would not apply it, even to the people themselves.

But take away the spring of ambition; that is distinction, and preference; and you relax industry; you increase indolence. I grant it. But it saves the heart. There may be less eminence; but there will be more goodness. It is on this principle that I condemn the distribution of honours in academies. It is beginning by corrupting the affections. It is planting the poison weed of *ambition;* the upas tree that taints the breeze, and kills the visitant. I shall have accomplished something by this book, if it shall keep some honest man from lessening his respectability by pushing himself into public trusts for which he is not qualified; or when pushed forward into a public station, if it shall contribute to keep him honest by teaching him the folly of ambition, and farther advancement; when in fact, the shade is more to be coveted, and the mind, on reflection, will be better satisfied with

itself for having chosen it. This is in great part, the moral of this book; if it should be at all necessary to give a hint of it. Will not an honest man feel compunction, when, after some experience, he comes to look back, and see the mischief he has done in a public station; sapped, perhaps the foundations of the constitution; misled by the ambitious; when at the same time, he thought he was establishing the republic. Understanding is therefore requisite; not *common sense* merely; but knowledge of the subject. But what is knowledge without integrity? And how can there be integrity, where there is ambition? Is there not the ambition of doing good? I do not call that ambition. The praise of doing good? I do not even like the word, praise. I would say the *pleasure* of doing good. For it is the greatest possible pleasure to a mind rightly informed; properly cultivated, to have done good. A consciousness of this, consoles under public obloquy, and ingratitude.

CHAPTER III.

A FRACAS, in the mean time had taken place, at the sign of the New Almanac. The cause of this tumult at the public house, was the circumstance of a disagreement which had taken place between the apothecary and his tumbler, the bog-trotter The latter having got upon the stage first, insisted that he himself was the doctor, and the apothecary the tumbler; and, indeed it seemed to be the most consistent; for the apothecary had the appearance of being, by far, the most alert man. Active and nimble he could leap like a monkey. It was for this reason, the public took the part of Teague, and insisted that he should retain his station of doctor, and the apothecary should play the part of the tumbler. Accordingly, he was under the necessity, however reluctant, to take his place upon the platform, and begin his pranks previously to the opening of the sale of drugs

The bog-trotter in the mean time, acting in the capacity of doctor Mountebank, had displayed his boxes, papers and phials But saying nothing of these, he made it known to the multitude, that he had a good will for the people of that village; that having been long absent, he had at length returned with the knowledge which he had acquired by his travels, and

with some wealth which he had encompassed by means of that knowledge; that in consideration of natural love and affection he was about to bestow a dollar upon every man present.

At the sound of the word dollar every ear was erected. No conventicle ever had hearers more attentive.

God love you, said he, my dear country paple and namesakes, hold out your hands, and your purses at de same time, and take dis dollar, dat I hold in my hand before every one o'd you. For here is dat famous powder tyed up so nately here every paper by itself, which I sell to all de world for two dollars; you shall have, dear honies, and much good may it do you; for nothing at all, but de half o' dat, one dollar a pace, and de devil a worm will ever trouble you afterwards. Here is two dollars going for one dollar; just out of love and kindness to de paple of de place.

The multitude, who had expected the bounty in hard cash, were somewhat disappointed; but nevertheless considering the bargain, the greater part that would muster a dollar, took the gift, and gave it in exchange.

The apothecary was so much pleased with the success of the new partner, that though on his part degraded to the inferior station, he counted it no misfortune; but began to tumble with more good will, if not with a better grace than before; submitting to the doctor Mountebank, who affected now and then to chastise him with a cowskin, to teach him manners, and alacrity in his profession.

CHAPTER IV.

THIS being the day of the annual election, the Captain apprehensive that Teague might be taken up in the borough, as the people are ever fond of new things, and the late gift of a dollar in the sale of the drugs, had made him popular; though what he sold for a dollar was not more in the apothecaries shops, than a few cents; apprehensive of trouble, I say, as on former occasions, when he had seen less of the world, and was not so well qualified for a representative, the Captain thought proper to withdraw the bog-trotter for a day or two from the village, and take a journey in the country, where his merits were less known, and there was less danger of his being kidnapped for such a purpose.

But whether owing to themselves, or to the times, the office of a judge, happening to be peculiarly obnoxious there was danger of being taken for one of them in their rambles; and therefore it became necessary to be on their guard, more especially, on account of the bog-trotter; so as not to go near an assembling of people; whether for the sake of an election, or for other purposes.

With all his caution, and circumspection, keeping the bog-trotter in the middle of the road; and warn-

ing him against what might happen; nevertheless, going too near a place where a poll was holden, the unfortunate scavenger, as I may call him, was recognized by some present, as having been upon the bench. The rumour soon went out, that one of the ci-devant judges, was making his escape, and the populace were called to apprehend the fugitive. Teague, denial being, in his way of thinking, a main point in the law, even had it been the case, was ready to swear by the holy poker, and the fathers, and every oath that could be put to him, and with great truth, that he had never been upon a bench in his life; or had been in the capacity of judge, or justice, since the day that he came into the country.

"Thy speech bewrayeth thee," said one of the people called Quakers; "I saw thee on the bench; and heard thee give thy charge to the grand jury."

By the bye, he was mistaken; for it was a Scotch judge that had given the charge; but he mistook one brogue for the other.

But the Quaker was believed, and the bog-trotter stood convicted.

Yes, said the multitude; he has the very physiognomy of a judge; you may see it in his face. Hang him at once, and be done with his judge-ship.

A rope-maker brought a new cord, with which never man had been hung, and throwing it over the limb of a tree, was about to attach the other end to the neck, when the sudden squall of a pig, that some one had hit with a stick, drew off the eyes of the multitude, and the attention of the man that held the halter; and the bog-trotter seeing an opening, made a sudden spring, and escaped from the crowd. He was pursued but a little way; no one chusing to tire himself, not understanding that any reward had been proffered by the government for the taking up a judge.

The Captain seeing Teague clear, and running now almost out of sight, began to expostulate with the multitude, and upbraid them for this violence.

Do you call in question the right of the people, said one of them, to hang their officers?

But are you the people? said the Captain. A few mad caps get together, and call themselves the people; and talk of the majesty of the people. You do not appear to me to be a very discerning people; to take my bog-trotter for a judge; nor can your majesty be deemed very gracious, and merciful, that would hang him up, not giving time to say his prayers, or to have the conversation of a clergyman. Had he been a spy come into your camp, in the war, on the eve of an engagement, you could not have shewed signs of greater dispatch in taking away life, than in this instance.

Captain, said a man who knew him; do not think so hard of these young men; they had no intention of hanging him outright.

But even half-hanging, said the Captain, is no pleasant sport to him that is the subject of it.

With that turning round his horse, he left the ground, and returned to the village; reflecting with himself on the danger of wandering far from the place of his abode; or at least venturing where he was not known; least he might be mistaken for a judge also, and brought to a hasty end, by the limb of a tree, as was near being the case, with his unfortunate bog-trotter, a short time ago, in the place which he had just quitted; and which he never wished to see again.

CHAPTER V.

HAVING composed himself at home some time the Captain took an opportunity, at a leisure hour to pay a visit to the blind lawyer, and entering into conversation, ventured to put the question, whence the rage against the judges? Had it always been the case, or was it a late matter that had broken out? Did it depend upon moral causes; or was it a matter of accident, unaccountable by man?

There is in the human mind, at all times, said the blind lawyer, a disposition to throw off shackles and revert to the natural simplicity of early ages; not that we relish even in imagination, the oak, and the acorn; but we pass over these which were the food, and the covering of the primitive inhabitants; and we think only of their liberty. How delightful it is to lie on one's back, and whistle; having no care, and no laws to trouble us. Down with the lawyers, has been the language of the human heart ever since the first institution of society. It breaks out into action, some times, as the history of Jack Cade informs us.

A spirit of reform, is, unquestionably, a salutary temper of the times; because there is at all times, need of reformation. This is the angel that descends

into the pool, and troubles the waters; so that he who steppeth in afterwards, is made whole. But troubling does not mean muddying the waters; but giving them motion, and exciting a current. It is by the spirit of the atmosphere, the wind, that the waters of the ocean are preserved salutary. But from the same cause springs the tempest, and hurricane. The spirit of reform is terrible in its excess. It is a matter of great judgment to stay it at a proper point.

Is not the right of universal suffrage, said the Captain, a great cause of this excess in our councils: persons young in the world; young in the country; or such as have but little property put upon the same footing with those that have a greater stake in the preservation of the laws, and in the stability of the government.

It is extremely difficult if not altogether impossible; said the blind lawyer, to adjust this matter to general satisfaction, and at the same time, general safety. With regard to age, it cannot well be carried, later than the age which gives the ownership, and disposition of real estate; and as to qualification of property, it has been found impracticable to carry it into effect. For how can the value of estate clear of all drawbacks, which any man possesses, be ascertained?

It seems inhospitable to hold the emigrant to a quarantine; and postpone the exercise of suffrage, to a distant day, and yet it is natural for an individual whom we admit to become a co-tenant of our habitation, to think that he can serve us, and himself also, by some alterations in the structure, or compartments of the cabin. The German inhabiting a cold country, naturally thinks of accommodation to the winter; the Briton also, anticipates the heat very little. Neither of these are aware of the particular winds that blow, or of the rains, at certain periods, that usually de-

scend; or of the diseases of the climate. The older resident ought to be consulted, and his notion of things not too lightly undervalued.

The idea of reform delights the imagination. Hence reformers are prone to reform too much. There is a blue and a better blue; but in making the better blue, a small error in the proportion of the drug, or alkali, will turn black. A great enemy to a judicious reform is a distrust of those skilled in the subject of the reform; and yet there is ground of distrust where those skilled in the subject, have any possible interest in the reform itself. One would suppose that an old lawyer out of practice; one who had been a judge, and no longer on the bench, might be trusted in all questions of amendment of the judicial system. But the legislative body is the organ of amendments; and it is natural for one branch to endeavour to absorb the independence of another; or to be suspected of it. Hence jealousy, and distrust, which an enlightened policy can alone dissipate.

But the present idea of reform seems to be to pull down altogether, said the Captain. I do not know that you will see "down with the judges" just written upon fence rails; or scored on tavern windows; but it is a very common language, among the more uninformed of the community. The danger is that it may be mistaken *for the voice of the people*, and under that idea, influence the constituted authorities.

That would be an error, said the blind lawyer. *For it does not follow, that, because a thing seems to have advocates, that it is the voice of the people. The noisy are heard; but the dissentients are silent.* Hence it is that those who hold the administration for the time being, are not always aware of the real inclination of the public mind. It is at the moment they seem to have the greatest way, that an under current begins to set

The truth and justice of the case, therefore is the great guide; not what may appear to be the popular opinion.

There would seem to be good sense in what you say, said the Captain; and for a blind man, you appear to have a tolerable insight into things. But how shall the truth and justice of the case be known in a government?

It is not an easy matter, said the blind Lawyer; or, as in the present conversation, I ought rather to call him, the blind *politician*. For there are fanatics, and there are designing men. The fanatic is an honest creature, that thinks he is doing God's service; when at the same time *he is undermining the pillars of the constitution*. The designing man, sails with whatever he finds to be the current: or, rather than let the pool stagnate, he will excite a current. In order to be something in a government, a man must do something. *There is little to be got by doing good; for all feel the benefit; but no one enquires into the cause.* It is by disorganization, that reputation is most easily acquired. The introducing a new law, or the pulling down an old magistrate, says Machiavel, are the means by which a young person may distinguish himself in a commonwealth. Indeed even an old person will find his account in shewing game. If he cannot shew a panther, he must shew a hind, and raise the talliho.

I do not know, whether you call a judge, a hind, or a panther, said the Captain; but that seems to be the game at present. Every one must have a whit at a judge. No festival can be celebrated with suitable patriotism, without a dash at the judiciary.

There is danger, said the politician, of running down a branch of the government. It is a delicate

point to restrain and not to overthrow. Wrong or excess terminates in the loss of liberty.

Individual injury may be done, said the Captain; but the constitution is a barrier to usurpation.

Our constitutions are yet green, said the politician. Inflexions are easy. It is construction makes the constitution; and these vary with the men in power. A witch at a mast head is not more dangerous, than the spirit of ambition. A branch of the government, is no more than a bramble bush before it. A philosopher is at a loss to know whether to laugh or shed tears, when he hears invectives against the immediate usurpers of a government, when the thing had its foundation in the errors of the people a long time before. It is like laying the death of a man upon death itself, instead of the primary causes which had sown the seeds of his disease. The ambition of individuals out of doors, and afterwards within doors, to carry particular points, without looking to the consequences, or overlooking them for the sake of the immediate object, is the invisible gas, or poison, that with a slow, or rapid process, ultimately produces fever, and brings on dissolution. Self-denial is the great virtue of a republic. It is the opposite of ambition. Self-denial looks only at justice. It looks at the public good. Self-denial may not be accompanied with information; but it is ready to receive information. It is not always an apt; but is at least a willing scholar. But inordinate self-love, begets obstinacy in the weak mind; and ambition in the strong; both destructive of happiness, political, or personal.

I hear a sound, said the Captain, like that of many tongues; and I see a man running, whose strides are like those of my bog-trotter.

It was a tumult in the village occasioned by the bog-trotter; though he could not be the cause of it.

Talk much about a thing, and you will put it into the people's heads. The fact was, that in a meeting of the citizens, it had been proposed a second time, to make Teague a judge.

Make him a devil, said a rash man, getting angry.

A devil, let it be then, said the populace; and while one went to get horns, and another hair, to make a tail, the bog-trotter was left standing in the midst. But he did not stand long; for understanding what was about to be done with him, he slipped cable, and shot a-head half a square, before the people were under way to retake him.

His object was, to reach the Captain, and the blind lawyer, whom he saw conversing at a distance. But was under the necessity of making some doubles, to elude his pursuers. At length, however, reaching the scean gate, more fortunate than Hector, he threw himself under the protection of the Captain; who being made acquainted with the cause of this uproar, was beginning to expostulate with the rioters.

Captain, said they, is it reasonable that the people should be checked in every thing they do? Was it not enough for you, to throw cold water upon making him a judge, or the editor of a telegraphe; but you must also obstruct his advancement to the office of a devil.

Finding the people warm, the Captain thought it, prudent to lay the blame a little on the bog-trotter in the first instance.

Teague, said he, this is the first promotion to which I have ever known you to have the least objection. Is it a false pride, or a false delicacy, that induces you to decline the appointment? Were it not more advisable for you to accept your credentials; the tail and horns, than, through an affected modesty,

to decline the commission ? or at least carry the matter so far, as to be a fugitive from honour.

In a free government, said the blind lawyer, a man cannot be said to have dominium directum, or an absolute property in his own faculties. You owe yourself to the commonwealth. If the people have discovered in what capacity, you can best serve them, it behooves you to submit, and accept the trust.

The bog-trotter, on the other hand, though he could not yet speak from the fast running, was averse from the proposition ; not only on account of the unbecoming appearance of the badge of the office, but least if made a devil, in appearance, he should be taken for one in reality. He might be claimed by Lucifer, perhaps, and ordered upon duty, not having a liking to the service ; whether it might be to tempt good people, or afflict the bad.

The fact is, he was taken by surprise ; and even when he got his breath, he stood gaping and at a loss what to say. It appeared to him an unintelligible matter, how he could be of any use to the community, in the capacity of a devil ; or how tails and horns, should change the endowments of his mind, though it did the appearance of his body. Hinting this, as well as he could in broken sentences, he was answered by the populace ; " that he had made no objection of that kind when he had been made a judge ; or acted in that capacity ; or when it was proposed to put him at the head of a paper ; that in fact it was a new thing from any candidate, unless, indeed, under an affectation, and semblance of modesty, to allege want of parts, or inadaptation to a place of profit or of power."

But perhaps it is the first time, said the lawyer, that it has been proposed to diabolize a man. Even of offices that are known to the constitution, there are some, which men of a liberal education, would wish

to decline; though, by the bye, it is not good policy to decline an office because of the subordinate nature of it; for submission to the will of the people, in this respect, it means of obtaining their suffrages at another time, to a more important station; wherefore I would recommend it to the young man to turn devil, since it is the public voice.

It will require no great change of mind, said the Captain, to qualify him. The metamorphose need only be of his body. His parts otherwise may stand as they are. But I would ask, is it not a superfluous alteration in the oeconomy of the world? Is not the devil that is already made competent to all necessary purposes. Why apply steam to propel a boat, unless against the current?

It is true, said the Lawyer, we have it in all indictments "moved by the instigation of the devil." And there is no complaint of the want of a devil, to instigate indictments.

Were that the case, said the Captain, I should be unwilling to withhold assistance even to do mischief when the community required it. But all matters appear to me to be going on pretty well towards confusion in this village. And why increase the number of devils, I do not well comprehend.

Cui bono, said the Lawyer, of what use? Why carry coals to New-Castle, or timber to the wood?

It appeared to the more reasonable that there was good reason in this; and it was agreed to postpone the making a devil at that time.

But it will not be understood that even the bulk of the people really conceived that it was in their power to constitute a devil with the qualities of one. They had no idea of turning devil-makers, to that extent of the composition. They had sense enough to know, that all they could do was to give the form, and ap-

pearance of one. For however men of superior standing in society, may be disposed to undervalue the common people, and to reckon them fools, there are as many knaves amongst them as fools; and perhaps more, upon a nice scrutiny. These rogues who were at the bottom of the business, meant no more than their amusement with the public, and a little mirth at the expence of the Captain. Nevertheless, the matter had been carried so far, that had not the Captain and the blind lawyer, assisted with their address, and parried the proposition of devil-making by an indirect argument, the inutility of it, the matter must have gone on, and a devil, in some sense of the word, must have been made. For it may easily be conceived, what a flame it would have raised to have stood forward boldly, and alleged that the idea of making a devil was a wicked conception, and had its origin, in a design to overthrow the government; that it was a diabolical attempt, and they must be worse than devils, into whose heads it had come. Nor would it have mended the matter much, to have told them that they were themselves devils, or at least, do the work of devils in hostility to churches, and schools of learning. For as by the application of mechanical powers we gain a force above the direct strength of a man, so by that mode of speech and reasoning, which flatters self-love, and hides the application that is intended. Men deserve great credit, who, by skill in science, have lessened labour; who by the invention of useful tools, have rendered the life of man more comfortable upon this globe. But they deserve not less praise, who by study and reflection have rendered themselves capable of managing the minds of men. This is the art of oratory, which consists not in length of speech, or melody of voice, or beauty of diction; but in wise thoughts: and here our orators from the schools fail.

Men of business learn to take things by the right handle, and to speak with a single view to persuade. You might as well expect good liquors without fermentation, as a man of real sense without experience in life. Doubtless all experience will not of itself suffice. There must be a substratum, or layer of judgment to begin with, in order to make a man of sense. Some may ask me of what use it is to have recorded these freaks of the town's people? It is not pretended that it is of any use, farther than to keep my fingers going. But is not that something to a man's self? *There is a pleasure in writing, which only the man who writes knows.* Yet I believe no man would write, unless he expected somebody to read. His own reading would be small if he did not expect to have it found out that he had read. Thus self-love is, in a great degree, the spring of all things. Is it nothing to be able to shew how easily I can elevate small matters? That is the very reason why I assume this biography. Any one can write the campaign of a great prince, because the subject sustains the narrative. But it is a greater praise to give a value to the rambles of private persons, or the dissensions of a borough town. One advantage is, that these transactions being in a narrow compass, the truth can be reached with more certainty, the want of which is a drawback upon histories of a greater compass, most of them being little better than the romance of the middle ages, or the modern novel.

Having premised thus much, we go on to a fact that took place the following Sunday.

CHAPTER VI.

THERE had been so much said of devil-making, in the village, for the last two or three days, that it had come to the ears of the clergyman, who became alarmed; and thought he had as many devils on his hands already as he well knew what to do with; not alluding to the devil in the scripture; but to the diabolicism of wicked men. He chose a text therefore, from which he could draw inferences on this subject; a passage of the scripture which might seem to have an allusion to the devil they had been about to make the preceding week, and at the same time, furnish a clue to some illustrations of the text. The words fixed upon, were those in the book of Job.

"And Satan came also among them."

It so happened, that just at the giving out the text, the bog-trotter with his walking pole, made his appearance at the west end of the church, which the people seeing, and mistaking him for that devil of which the parson spoke, rose as one man, and called out "the devil." For it was seldom that Teague had come to church; but the Captain had enjoined it upon him that day, to see what reformation it might produce in his life, and conversation. It was unfortunate that the clergyman, in pronouncing the word, had

happened to direct his eye toward that end of the church at which Teague was; which drew the attention of the people to the same quarter; and hence the impression, as sudden as it was universal.

As from a theatre, where the scenery has taken fire, there is an effort to escape, and the spectators rush in every direction; so on the present occasion. The greater part had got out, and were at some distance from the church, in disorder, the deacons endeavouring to rally them like officers, the flying squadrons of a routed army; but in vain; the panic had been so great, that every one was willing to make the best of his way, from the scene of action.

The Clergyman himself, was not a little terrified, thinking that, contrary to expectation, the devil had come among them; and though he himself had seen nothing of him with the naked eye, yet that he had been visible to the congregation. Accordingly he had made his escape at an early period of the flight, and was on a hill, apart in the rear of the church, at prayers; with his eyes open; not shut, as was his custom, for on this occasion, he had thought it advisable to have a look out, not knowing what might heave in sight before he had concluded.

The clerk being a lame man, had sat still in the desk, and given out a Psalm, so that of the whole, he was the only one who could be said to remain at his post.

The bog-trotter, was under a more unfortunate mistake; for he took it for granted, from the words of the clergyman which he had heard, and from the alarm of the people, that he had in reality undergone a change, and had become a devil. His endeavour, therefore, was to fly from himself; like one whose clothes are on fire. His howling and shouting, like that of a beaten dog, increased the disturbance, and

his own perturbation. He was a mile from the village before he ventured to look back ; and even then, he did not stop, but continued his route to a greater distance in the country ; at the same time not convinced fully of his metamorphose ; for putting his hand to his head, he could feel no horn, nor a tail behind his back, though he endeavoured to catch at this also. Hence it was, that he thought it proper to extricate himself, and ascertain at his leisure, the real state of the case, as to his being what he was, and the idiosincracy of his existence.

Certain it is the bog-trotter had no great intrinsic value in the qualities of his head, or heart ; nevertheless, from habit or some other principle, the Captain had conceived some attachment to him ; and was uneasy at his disappearing, especially under the late circumstances ; not knowing what might befal him from a mistake of characters. In the present state of the public mind, with regard to the judiciary, it might happen to him to be viewed again under that aspect, and be laid hold upon as before, and put in fear of his life. Nor was it a thing morally certain that he might not become a trespasser himself, if not upon the persons, at least upon the property of men. The want of food might tempt him to rob hen-roosts, or break spring-houses, which are used as dairies, or to keep meats fresh, in the summer season. On these grounds, he thought it both for the public good, and that of the individual, to endeavour to reclaim, and bring him back. As to the idea of his turning hermit, which some thought probable, it never came into the head of the Captain. For though he knew that disappointments in love or in ambition, have oftentimes made hermits, yet this must have taken place in the case of persons of greater sensibility than had ever been discovered in the bog-trotter. Misanthropy

is sometimes the natural characteristic of the mind ; but more generally the offspring of extreme benevolence, hurt by ingratitude. Hence it ought to be inculcated to indulge even benevolence, with moderation ; and to be careful against sanguine expectations of gratitude, from those served. "Be not weary in well doing" to others, even though a correspondent mind in those served, does not always shew itself. But for the sake of self-preservation, it is unsafe to count too much upon the fruit which good acts may produce. The seed does not always fall upon good soil, and the seasons may blight the crop. But the anchorite is not usually made out of such as Teague O'Regan, who had rather be among men getting flesh and fowl to eat, than living on vegetables in the woods, and drinking the element of water from the pure rock ; or to trace the matter somewhat farther back, as we have already hinted, where the natural mind does not find its enjoyments, in the association of the happiness of others with its own.

The whole village appeared to take an interest in the uneasiness of the Captain, from the loss of his servant. The young man who had set up the polecat to counteract the paper of Porcupine, had gone out in quest of him, and from his knowledge of the woods, looking for cats, could more readily than others, go to such recesses, or point out such caverns, as might be expected to receive him.

The blind Lawyer and Fidler had paid the Captain a visit, to console him, the one with his violin ; the other with his conversation. The blind Lawyer made light of the matter, and thought that taking to his trotters, was the best thing that Teague O'Regan could have done ; and that the leaving the village, for a time, though operating in the nature of exile, yet carried nothing more with it, than had happened in

the case of Aristides among the Greeks, or Marcellus among the Romans ; and illustrious characters of all countries, who avoiding envy or yielding to unjust prosecution, had been under the necessity of abandoning their country for a period. Some indeed had spent the remainder of their lives in foreign countries ; and were buried by people, who formed a juster estimate of their merits, than their ungrateful countrymen, whose happiness had been advanced by their wise counsels, or heroic actions. But that in the case of the bog-trotter, there was great reason to believe, not only that he would be well received by the neighbouring states ; but that in due time he would be recalled to the bosom of his country, with feelings of a contrary nature ; but in proportion to the ignominy of his exit.

The Captain felt a degree of consolation from the observations ; but at the same time, could not avoid expressing his regret that he had not favoured the ragamuffin, throughout, in his pretensions to become an editor of a gazette ; and the proposition of the citizens, to put him at the head of a paper ; for though it might have subjected him to a kick, or a cuff, now, and then, for a blackguard paragraph, yet he would have avoided the danger of being taken, as had been the case, for a judge, or a devil.

But, said the blind Lawyer, as you intended it, for the best, though it has turned out otherwise ; yet there is no reason, why you should blame yourself ; or that others should find fault. Time and chance happeneth to all men. In the capacity of editor, he would have been subject to indictments for libels, to which a want of an accurate knowledge of law in matters of written slander, might have rendered him liable. He had some legal knowledge, I presume ; having studied, not at the temple, but in this country,

perhaps with more advantage ; for I believe it is pretty well understood, that temple study is not of much account.

He understands about as much law, as my horse, said the Captain; for which reason it was the greater burlesque to talk of making him a judge. Unless indeed all legal knowledge, should be put down, and men should determine by their own arbitrary notions of right and wrong, independent of rules, and principles.

As to the making him a judge, said the Lawyer, I do not take it there ever was any thing serious in it ; and even as to the present obloquy against the law, I am disposed to think, the current has in a great degree spent itself Accusation and condemnation are not the same thing. It is no new thing to see accusation and condemnation mean the same, under an arbitrary government. Indeed in a government of laws, we have seen the power of aristocracy, the influence of wealth and office, exerting itself, and sometimes succeeding in running down the accused ; so that while they enjoyed the name, they were deprived of the substance of trial. Even in a democracy, not in name only, but in fact, ambitious men have misled, and pretending the public good, have had in view, their own purposes. But in the free and equal representation of a larger borough, and before a deliberate tribunal, it is contrary to moral probability that accusation and condemnation, will come to be considered as the same thing. Adversaries may pretend this ; and in order to bring a slur upon a republican administration, *may even wish it*. But it is not in the common course of things that it should be the case.

I do not know, said the Captain ; I have not read a great deal of history, ancient or modern, to be able to take a view of the judicial proceedings in the case

of public men in republican governments; but there is a difference in this borough, from the ancient republics, in the matter of *representation*. In the forum of Rome, the people themselves assembled; and heard the cause. They had not to look over the shoulder to see how the constituent, who was not within hearing, stood affected; or to reflect in their own minds, how an acquittal would be taken by the voters, who had prejudged the case, and had said, *that the officer must be brought down*. Do you think Sylla, on his abdication, would have offered to submit the necessity of his proscriptions, to the people *in a representative capacity?*

And yet, said the lawyer, the chances for justice, would seem to be in favor of a body removed from the multitude, and approaching more to a *select tribunal*. But the fact is, there is no perfection in any human institution. It is "the Judge only of all the earth," that can at all times do right.

It is a great thing to have no private views, and to have *conscience;* so that no enmity can warp, or dislike mislead. *Understanding* also, is requisite to confine the consideration to the charge, laying out of the view collateral suggestions. For if Cinna has not conspired, he ought not to be "*torn for his bad verses.*"

But if justice cannot find *a certain residence in a democratic government; she must leave the earth.* I despair of finding it any where else. But I have felt *tyranny*, or have thought that I have felt it, even in the courts of justice. I had thought that I had felt it, and left a certain bar prematurely on that account: so that I am not one of those who lean against *the investigation of judicial conduct.* It is my object only to assist the democracy, with general observations; and by the democracy, I mean not so much the tri-

bunals that are to judge, *as the people that delegate the judgment.*

It will be a great matter, that the judgment given, be able to stand the examination of law and reason, abroad and at home. High cases will come down to posterity, and fix the character of the administration. Liberty will be affected as posterity will approve or reverse the judgment. That is a high and transcendant court, with whom it lies to *judge judges;* and lessons of high honour and discernment from that court, will have an effect upon the streams of justice to the remotest fountains. If the *understanding* of such paramount tribunals, appear not beyond *suspicion*, from the decision given, it will be a great hurt. *The really guilty may afterwards escape from an odium brought upon the prosecution.*

An accusation will be less readily sustained, when *accusation*, and *condemnation*, should ever that happen, comes to be considered as the *same thing.*

CHAPTER VII.

NOTHING had been yet heard from the polecat man, who had gone in quest of the bog-trotter; nor from any other quarter, could the Captain learn the place of his banishment. Had he known where to find him, he could have sent him some books to read, suited to his present situation, and his state of mind. Bolingbroke on exile; Boethius, his consolation of philosophy; these, though he could not read himself, he could get others to read to him; unless indeed, he should have happened to have fallen into a very illiterate part of the country; or where the German only was spoken; and so these books which are written in english, could not be read; the last was written in latin; but translated into english. Not having books to read, he would have to amuse himself with nine-mens-morrice, or cross-the-crown, in the sand, or upon chalked boards. Perhaps this might answer the purpose as well to an uncultivated mind, as dissertations of wisdom in manuscript, or print Business is perhaps the best assuager of melancholy; but the indolence of the Ourang-Outang, as he may be called, speaking characteristically, would hinder him from using this means of cheating his imagination. Laziness was his fort; and there

was reason to believe, that he knew it, and would stick to it.

The Captain, however, was not unattentive in his enquiries in the mean time, and hearing of a conjurer that had come to town; not having much faith in his art, but in compliance with the wishes of some who suggested it, he thought proper to consult this wise man, and gain from him such discoveries as he might think proper to communicate. Not that he imagined Teague had got among the stars, and taken his station with the crab, or the lyon. But this conjurer, having more to do with bringing back stolen horses, or lost goods, than casting nativities, it might fall in his way, to ascertain the track of the bog-trotter.

The fact was, that O'Regan had been met with by the conjurer, on his way to the village, and had been taken into his service as one that seemed to answer his purpose for an understrapper, having some knowledge of the town, and capable of acting the part of an under devil, whom he might occasionally raise, and interrogate upon the state of affairs at home, or abroad. The hair that had been intended for the devil's tail, sufficed now; for Teague pointed it out the evening they came into the village; and the horns were at hand, which had been provided for a former service.

In the capacity of assistant conjurer, O'Regan played his part in the commencement, well; and the ladies coming to consult, had some things told them that had happened; a circumstance that gave them full confidence in the information given with regard to things to come. It was this that had raised the credit of the conjurer, and made his art the subject of general conversation. For the tongue of a woman is an excellent promulgator in all that relates to secrets.

There was a widow lady of great fortune, that wish-

ed to see her second husband. The visage of the Captain, just coming in, was reflected from the mirror, and she saw him.

My dear husband, said she, it must, it will be so. If the stars have ordained it, there is no getting over it. I shall be happy how soon it can be brought about. Can you tell conjurer, how long it will be before the knot is tyed. How valuable an art it is that can so easily relieve doubts. By this time she had the Captain round the neck, and was kissing him, without regard to the company.

The Captain, from natural delicacy, or a good education, was unwilling to repel the caresses of a lady; at the same time, thought he could not in honour take advantage of the mistake, under which she appeared to labour; but on the contrary, explained to her on principles of optics, the manner in which his physiognomy had been reflected from the lense, and that it would require another experiment to ascertain the real husband, which the stars intended.

The conjurer admitted, that his glass had not yet been applied to discover invisibles, that in fact, he had been only bringing it to bear, when the face of the Captain intercepting the vision.

The lady was satisfied, and disposed to reconcile herself to the real designation of celestial powers, conceiving it in vain to struggle with destiny; and therefore desired the conjurer to lose no time; but to manifest to her the real object of her hopes.

Applying her eye to the glass, she saw a face that she did not greatly dislike; for it had the appearance of freshness, and contentment; but she saw *horns*. Horns! said she. What can this mean?

Mean, said the Captain; every one knows the meaning of the emblem. Antlers is a common place figure for cuckoldom; and that would seem to have

been the case with the poor man in his former wife's time.

The lady was glad to find the allusion had passed ascant from herself; as indeed it could not well be made to her; not being yet married to the gentleman.

In fact it was the bog-trotter, who instead of raising a picture in the camera obscura, had thrust his own head into the box; and having just before affixed his tail, and put on his horns, the last were visible *in that quarter*, when he presented his physiognomy through the magic lantern, of the conjurer. His curiosity to see the lady, had led him to do this; and expecting that the conversation, before the scenes, would have lasted longer, before she began to look, he was surprised, and had not withdrawn his head.

The lady requested the conjurer to inform her, what length of time her future spouse, would be in coming down from the constellations.

It is not in our power to determine the orbits of fortune, said the conjurer; but simply the phases of the planetary changes.

I should like your faces better, said the lady, if you would bring them down without horns.

This face that the stars have shewn, said the conjurer, is in the crescent; but if you come a day or two hence, he may be at the full, and without horns.

In the crescent, or at the full, said the lady, let us have him soon, since it is what I am to have. So saying, she withdrew.

The Captain stepped up to put his questions relative to the bog-trotter; and explaining at full length, the circumstance of his absconding, wished to know the place of his seclusion, and the means of his reception.

He is in my service, said the conjurer, acting the

part of the devil, and is the very figure with the horns, which the lady that just now left us, has mistaken for her future husband; at the same time explained to the Captain, the circumstances under which he found the vagrant, and the manner in which he had accoutred him for the part he had to act; and also how it came to pass that he had got his head into the box, and shewn his horns, which had given umbrage to the lady. He gave him also to understand, that he had found him a tolerably expert devil; that he carried his horns, and his tail well; that he had raised him frequently, in the capacity of devil, since he came to town, and was to raise him that evening to some young men who had appointed to consult him on love matters; that if the Captain would wait, he might see him play his part, and judge of his dexterity in his new office.

As when in an epilepsy, the eye is fixed in the head, and presents a motionless stare, so look'd the Captains' at this crisis. He was astonished at the deception of the fortune teller, and the vagaries of his waiter; this last adventure had exceeded all the rest. He could not avoid expressing his disapprobation of the foul play which had been shewn the lady; and the fraud which had been put upon her, shewing his bog-trotter for a person designated by the heavenly bodies, to be her partner in matrimony; and still more, the iniquity of inveigling an ignorant creature, to take upon him the character of devil; a masque which he had been endeavouring to avoid, even at the risk of leaving the village; but what especially gave him pain, was the immorality of the occupation into which he had been led, picking peoples pockets under a pretext of discovering things unknown, while in reality, the whole was an imposition. It was of lighter consideration that he had degraded himself,

and stooped beneath his former designation, and objects of ambition.

However, as the conjurer had him in his service, and some claim upon him, probably to fulfil his engagement, for the season, what could he say, or do? Contracts must be complied with; unless, indeed, the unlawfulness of the service, might relieve, from the condition. For this, it would be necessary to consult the blind lawyer; and for which purpose, he took his leave, and withdrew.

The blind lawyer, was of opinion, no prior contract with the subordinate, existing, having been but a servant at will, no habeas corpus, or other legal process could lie on the part of the Captain, to take him out of the hands of the conjurer; and as to the unlawfulness of the service, that must be a plea in the bog-trotter's own mouth, and not in that of another for him. Doubtless it was a fraud upon the public; but the people themselves became a party, by consulting the wizard, and no action would lie to recover money back so thrown away. For potior est conditio possidentis. But in foro conscientiæ, it might be a question whether it was a wrong to trick people that were willing to be tricked. Si populus vult decipi, decipiatur.

The Captain thought it an immorality, to take such advantage of the credulity of the young, and the ignorant; or even of old fools; for truth, sincerity, and plain dealing, was the basis of morality.

A quid pro quo, in all contracts, said the Lawyer, is doubtless, necessary. There must be a consideration. But it is not necessary that this be a substantial equivalent. One promise may be the consideration of another. Amusement is a consideration of a great part of our stipulations. Can any thing amuse more than fair hopes?

The pleasure is as great,
Of being cheated, as to cheat.

I am not able to argue with a Lawyer, said the Captain, especially on principles of law; but this much I know, that the conjurer engages to perform what he cannot do, that is, to tell fortunes, and therefore deceives. Hence he is what I call a rogue. Now that my bog-trotter, low as he is, should be an apprentice to a rogue, or worse, an assistant and partner in iniquity is a reflection upon me, who have brought him here; and independent of this, there is the degradation of turning devil. A printer's devil, we all know, means, the lad that cleans the types, or puts on the black-ball; but this is a different sort of personage; and actually wears horns, and is in the semblance of Belzebub; or at least in that representation of him, which the painters give.

As to degradation, said the blind Lawyer, that is matter of opinion. If we recur to popular language, and take our ideas of an honourable calling from common parlance, we shall find nothing of higher estimation in grade of profession, than that of the conjurer; we say of a physician, he is no conjurer; of a lawyer, he is no conjurer; and so on of other occupations, meaning that however eminent, any one may be, still he falls behind the conjurer. But in a republican government, the trade or employment of a man, is but little considered. The great matter is the profits of it. Does it make the pot boil? If the bog-trotter finds his account in the service, and makes money, the world will wink at the means.

To act the part of a devil may be sinful; as a divine would say; but as to honour, I do not know it to be any impeachment to be a devil. The greater the devil, the better the fellow. It is a cause of challenge to call a man a knave; but not to say he is a devil.

The Captain discovered that the lawyer was disposed to be playful, and not serious; and dropped the conversation; still hurt in his mind at the catastrophe his subordinate itinerant, who had been on the pinnacle of fortune, in point of expectation, having fallen so low; and gone so far astray, in his pursuits. But a change was given to his meditations, when, in the mean time, the bog-trotter appeared, without tail or horns; or a whole shirt upon his back. He had lost all these in a scuffle with the conjurer, about the division of the profits. A misunderstanding had also taken place on the subject of alternating offices, the deputy insisting that he should change places occasionally with the master, who should act the devil in his turn. This the principal refused to do, and hence the disagreement, which had come to blows, was the cause of a separation.

CHAPTER VIII.

POPULAR obloquy and reproach, had fallen upon the Captain, in consequence of his waiter having been with the conjurer, and acting in the capacity of devil. Though, by the bye, it was the people themselves that had brought the thing about by the masking him with tail and horns. So inconsistent is the multitude, that they blame to-day what they themselves have caused yesterday. The Captain being hurt at this, and willing to clear off reflections, for the future, determined to deliver up the bog-trotter to themselves, to make of him what they thought proper. Accordingly having called a town meeting, and bidding Teague follow him, and addressing, more particularly, the officers of the incorporation, he spoke as follows:

Fellow-citizens, said he, here is that young man, whom you have made a devil of in this town; for it was you that made him a devil, and yet you blame me, as accessary to the wickedness; or rather, the principal in the act. Now here he is, stripp'd of his tail and horns; and, I will not say, like the sun, "shorn of his beams," for that would be too elevated a simile; nor like Sampson, "shorn of his hair;" for that would be also pompous. But I will say, like

yourselves, without superfluous incumbrance. Take him therefore into your custody, and under your protection; and hew him into whatever shape you may chuse; fashion him as you please. Make him the editor of a newspaper; or transform him even to a judge of your courts. I shall not stand in the way of his promotion, or of your will any longer.

It was evident that the first impressions of the people, were favourable to the proposition; and that they took in good part, the condescension of the Captain to the public voice. But a factious man, in a leathern pair of breeches, who had never had an opportunity before of making himself heard, rose to speak. Captain, said he, is it fair to attempt a burlesque on the democracy, by intruding your servant on the public mind, for a post of profit, or of honour. It is true, the greater part of us, are but plain men, and illiterate, if you chuse to have it so; but yet, it is to be hoped, we are not just so hard run for persons capable of civil employments among ourselves, as to be under the necessity of recurring to your bog-trotter.

Heavens! said the Captain, roused a little in his mind; for he was not apt to swear; has it not been yourselves, that have proposed the matter, and brought all the trouble on my head respecting it? I did, it is true, in the first instance, suggest the idea of putting him at the head of a paper; but it was without consideration; and I retracted it, both in my own judgment, and in my words, to you, immediately after. For though the press has been degraded, *by such as he is, in that capacity*, yet I was not willing to contribute to the like evil. The making him a judge came from yourselves; it was an idea that never started in my brains. It was your own burlesque, not mine.

Why should I undervalue democracy; or be thought to cast a slur upon it; I that am a democrat

myself. What proof have I given you of this; *my works shew my faith.* It is true, I have not undervalued learning, or exclaimed against lawyers; or joined in the cry of down with the judges; but, take the tenor of my life and conversation, since the foundation of the village. I was at the first settlement of it. Did I engross lots of ground? Has there been a necessity for an agrarian law in my case? Have I speculated on the wants of men, by forestalling, or regrating? Have I *made haste to be rich?* That is, have I overstepped the common means of industry? Do I value myself on my fine clothing? Do I indulge in luxurious living? Is my hat off to a rich man, sooner than to the poor? Do I oppress the stranger; or rather do I not assist him, and invite him to our habitations? Who has heard me call out against foreigners; or fixing a prejudice against emigrants?

Captain, said an Irish gentleman coming forward, and beckoning with his hand; all dis, dat you tell us, is very well. But is it a genteel ting, to trow a ridicule upon de whole Irish nation, by carrying about wid you, a bog-trotter, just as you would an allegator; or some wild cratur dat you had catched upon de mountains, to make your game of paple dat have de same brogue upon deir speech; and de same dialect upon deir tongues, as he has? By de holy faders, it is too much in a free country, not to be suffered——

Phelim, said another of the same nation, interrupting him, but a man of more sense, and liberality; you are a fool, said he, Phelim; if you were my own born brother, I would say so. You are a fool; de Captain means to trow no ridicule upon de nation. Gentlemen of all countries laugh at deir own fools, and make jokes upon dem; not to show de follies of de nation; but of human nature. In Dublin, we have our jokes upon our Dermots, and our Thadys, and

de devil a duel about it; nor in dis country neider; wid men dat have travelled and can give a joke, and take one, just for de sake of peace and quietness, and good fellowship, and eating and drinking, which is much better dan breaking heads, wid sticks, or shivering one another wid bits of iron, de call cutlashes; or snapping pistols, for nothing at all, but de humour of de thing; when I can see no humour in it but folly, and nonsense: so hold your tongue, Phelim, and let de Captain spake; I like to hear him, very well. You might as well take exceptions to Don Quixotte, because he had his Sancho, and would make him a governor; if dere was any ridicule in it, it is upon dese paple demselves, dat are so imposed upon, to make a bog-trotter a justice of de peace, or a judge; and not upon de nation of Ireland, dat have men of sense, and fools like other nations. Commend me to de fun of de thing. I like de joke very well. De burlesque consists in comparing de high wid de low, and de low wid de high: and de dialogues, and spaches mark de characters. It is de high dat is ridiculed, and not de low; when you compare de low wid it. De books and travels will tache you dat, Phelim. Let de Captain spake widout interruptions; and tell his story. I like to hear de Captain spake very well.

Far be it from me, continued the Captain, to undervalue Ireland, or to mean disrespect to the nation. On the contrary, it was from good will to the people, that I have taken the notice of this young man, that I have. Much less have I intended a reflection upon a democratic government, in the countenance I have given to the proposition of advancing him in grades, and occupations. *Nor is it democracy, that I have meant to expose; or reprehend, in any thing that I have said; but the errors of it: those excesses which*

lead to its overthrow. These excesses have shewn themselves in all democratic governments; whence it is that a *simple* democracy has never been able to exist long An experiment is now made in a new world, and upon better principles; that of *representation and a more perfect separation, and near equipoise of the legislative, judicial, and executive powers.* But the balance of the powers, is not easily preserved. *The natural tendency is to one scale.* The demagogue is the first great destroyer of the constitution by deceiving the people. He is no democrat that deceives the people. He is an aristocrat; and seeks after more power than is just. He will never rest short of despotic rule. Have I deceived the people? Why then am I suspected of a want of patriotism, and good will to the people. Why am I charged with ridicule at their expence, who wish nothing more than to inform their understanding, and regulate their conduct.

But is it not presumption in you, Captain, to undertake this, in any shape? said a man, with a shrill voice. Is it not an insult upon the people, to suppose that they can err: or supposing it, that you can set them right?

It is too much to bear, said a third person, with a grey coat. I am for repressing all such presumption. It leads to aristocracy.

The blind lawyer got up to speak.

We will hear no lawyer, said a man with a long chin, and a pale visage.

It is the blind lawyer, said a friend to the Captain.

Blind, or purblind, said the man with the pale visage, we shall hear no lawyer here. The Captain has bred a great deal of disturbance, since he returned to the village. He has opposed us in every thing that we proposed to do. No reform can be carried on, but

he must have his objections, and exceptions from the nature of government. Just as, if the making, or keeping up a government, was a thing of mixture, and composition like a doctor's drug. As if a man must learn it, as he would to make a watch; or to keep it in repair like a clock. Can there be any thing more simple than *for the people just to govern themselves?* What needs all this talk of checks and balances? Why keep up laws, and judges, at an expence, as if the people were not competent to give laws, and to judge for themselves?

Ye need na' mind the Captain, said Duncan, coming forward, having a regard for him, and seeing him in a delicate predicament, the anger of the people kindling; ye need na' mind the Captain, said he, *for he's no right in his head.* He has got some kink in his intellect, that gars him conceit strange things. I was his waiter twa'ree months; and I found him a wee thing cracked; and ye canna weel but find it sae, when ye tak a look at his vagaries, and imaginations. Just let him go about his business, and mind your ain affairs. It wad be a shame to fa' out wi' a man, *that's no right in his head.*

If that be the case, said a man with a brown wig, great allowance ought to be made. None of ourselves can tell how long, our natural reason may be continued to us. To be sure, he talks like a man that is not just himself. But we did not know but that it might be a disguise to conceal his views; a masque of simplicity the better to introduce monarchy.

Gentlemen, said the Captain, there is now nothing more difficult for a man, than to prove that he is not mad. For the very attempt to prove it, admits that it may be doubted; or at least that it is doubted. Besides I shall not contradict Duncan, who, I am persuaded, believes what he says. But since my services

amongst you, at present, do not seem to have been well received, though from my heart, well intended, I will leave you for a while, and call off the bog-trotter to another ramble. Considering it as a banishment in fact, though not in name; and adopting the language of some under like circumstances, I will wish, *that the village may never have occasion to remember me or my observations.*

CHAPTER IX.

THE Captain being obliged to leave the village, was now about to renew his travels; not, as heretofore, on a voluntary excursion, but in the capacity of an exile. He was accompanied as usual, with the bog-trotter; and with several others of the village; who were willing to share his fortunes in some new establishment. Amongst these were the blind lawyer and fidler; Clonmel the ballad singer; the latin schoolmaster; O'Fin an Irishman; Tom the Tinker, and others: the Captain mounted; the rest on foot. A blind mare, with a pack-saddle, served to carry their provisions. This was the whole caravan which was about to set out for the new settlement.

After two days travelling, they came to a town, where judges and lawyers continued yet to be tolerated. Nevertheless a judge, just before, had been driven from the bench, owing to a fracas that had happened on the bench itself, with a brother judge, and which took its rise from a difference relative to idiom, and dialect of language. The one was a Scotch gentleman, and spoke with the Saxon pronunciation; which is still that of the north of England, and the south of Scotland. The other was a native of France, and had acquired the English language after his arri-

val in this country, some years before. The Scotch judge found fault with the gallicisms of his French associate, and said he did na' like the accent, and that it was an error to bring it on the bench. That it did na' behoove (the French judge) to open his mouth to give a charge, especially to a grand jury, wi' sic' a dialec' upon his gab. The French judge seemed to think that his gallicisms were as good as the other's patois, or scoticisms; and observed that the French language had a footing in the courts, and was even the language of the law itself, at a very early period. A great part of the law of the tenure of real property, came from the Normans, who were French; that England became almost a French country under William the conqueror; that the terms de la loi, or law phrases, are vestiges of French to this day. Cestui que use: in pleadings, ne unque accouple en loyal matremonie; antre fouis acquit, tout tems prit, and many others. Are there any vestiges of broad Scotch in the law books?

Aye, quo' the Scotch judge, the law was Saxon before it was French; and it is time that it should come back to the Saxon again. Ye sha' na' deliver a charge on this bench, unless ye adap' your language to the state of society and speak plain English, or Saxon; for they are a' the same thing; and ha' the same privilege in a' courts of justice.

The French judge began to address the jury; when the Scotch judge interrupted, and called a constable to take him down *frae the bench.*

The French judge being a choleric man, laid hold of him by the waistband of the breeches, and the nape of the neck, and whirled him with a contortion of the body from the seat of justice, amongst the lawyers of the bar. His body having a rotatory motion, and his legs diverging like the spokes of a wheel, his

heels flew round, and one of them hit the clerk on the nose, and a barrister above the brow; and caused great disturbance, to the fear and terror of the suitors, and other good citizens of the commonwealth. The result was, that the Scotch judge had to leave the bench altogether, and go to the bar. The French judge in the mean time had been sent to Congress. Hence it was, that a vacancy existed in the place of judge; or rather two vacancies; but the main difficulty was to get a *chief justice; or president*. The Captain made mention of the blind lawyer, whom he had in company; but they were unwilling to have a blind man. They wished to have a perfect judge; or one at least in possession of all his outward senses. He then proposed the bog-trotter; stating that he had been in request for that promotion, before they had set out from the midland country.

The offer was accepted, and Teague was made a judge, and took his seat upon the bench.

The Captain had determined with himself, that he would oppose the advancement of this Teague O'Regan no more, having got so much ill-will by it. Nevertheless, he thought it not amiss to put him under the care of the blind lawyer, or for some time to give him instructions for the office, which at least could do him no harm, if it did no good. Accordingly the lawyer took him in tow, and began as follows.

Teague, said he, you are arrived to honour and emolument, which some of your betters have deserved, and could not obtain However, "time and chance happeneth to all men." You are now on the seat of justice; and it remains for you, if possible, to qualify yourself for it. For I take it, you are yet to begin to obtain the requisites for the discharge of that trust. Now I have no idea that you can acquire legal knowledge. That is out of the question. Nor do I think

it possible that you can ever attain the first elements of jurisprudence. But this is not absolutely necessary upon the bench, more than at the bar. I have known a judge upon a bench, whom I would not trust with the value of a hob nail, in a cause of mine. It would be a substitute for sense if you could cite cases. But you have not even cases to cite, and call *authorities*. You must therefore begin a peg lower, and content yourself *with the saving appearances, merely personal.* Your gait must be steady; your demeanour slow; gravity is a great cover for stupidity; stupidity, indeed supplies the place, and in most cases, gives gravity. But still it is to be cultivated. You must wear spectacles, to make people think you can read. If you do not take notes; yet seem to take them; for it is the fashion of the time, to be a great note taker. At least talk of your notes; that will pass for taking them. The Areopagi took no notes; for they sat in the night, and had no candle light, And *justice herself is said to be blind*, and can take no notes. But note taking is now the main part of the qualification of a judge; so that if you do not take notes, you must seem to take them. I myself, had I been appointed a judge, would have had to scratch a little. My fidler might have been a good assistant to me in note taking, had he not been blind too; for having the use of his elbow on the fiddle, he could scratch notes with great rapidity, could he write; but that he could not do, nor read either. So that I should have been as much at a loss as you in this particular. But it would not be impossible for you, as you have your eyesight, to learn to write Abracadabra, Tantarara, and pass them for notes. However, if you cannot acquire all excellencies, you can avoid some defects. You can give attention, and seem to understand what is said in argument, though

it be impossible that you should understand a syllable. It is a great indelicacy in a gentleman to refuse his ear, or to shew himself inattentive in private conversation. But in a judge it is intolerable, when you are to decide upon a point which is argued with much earnestness at the bar, and where the counsel expect at least that you will hear them, even if you should not decide in their favour. For when they are heard, and are satisfied that they are understood, they are disposed to be content. But it is an error of which I hope you will not be capable, to interrupt the argument by matters of your own concern. As for instance, when an advocate is at the pinching point of his reasoning, to call out for the crier to bring you something. You will see the advocate in such a case, turn and writhe himself, and shew, in his countenance, the irritation that he feels. But he is obliged to resume his oratory, and go on, saying your honour, and he would rather say, "cannot you take advantage of a pause to call for what you want." It is mentioned of Lord Camden, that he was in all respects, the most correct of men in his treatment of the bar, save that he would sometimes, *in the middle of an argument, stoop down to garter up his stockings.*

It is dangerous in a judge to attempt wit, especially if he has none. There are few that have the talent; and it is not every one that knows that he has it not. It will be your best way to attempt nothing of the kind; but preserve gravity, and an imposing air of austerity. For as far as I can learn from the Captain, you are not happy at a bon mot.

But you must be careful of your mind itself, that it be not rendered vain by being called your honour. If the bar discover that you are weak on this head, they will plaister you with "your honour; your honour, and your honour." They will be careful also to say,

the "*learned judge*," and this the more unlearned they think you are. And especially when they mean to impose upon you sophism for argument, and false construction for solid deduction, and conclusion. The "learned judge upon the bench;" when at the same time they will be at a loss to say, whether they think you or the bench you sit upon, the most destitute of sense and understanding.

A man that has been behind the scene knows the vanity of all this, and how much must pass for nothing of all that apparent deference which is paid to the understanding of a judge. For the counsel of delicacy, and refined manners, will pay this respect to the office, on a principle of good breeding, and what becomes the profession; others will do the same thing, and perhaps overdo it, from motives of prudence, and to gain a point with the court. There is trick in all trades, and there is craft, in the craft, if I may use a pun on this occasion.

But you have never been behind the scene; and have no experience of this play upon travellers; and managing the weaknesses of men. You are but a young judge, and likely to be lifted up with vanity, from your sudden elevation. Because you sit a little higher than the bar, and the suitors; for the bench is usually raised a little, you associate your situation with yourself; thence comes arrogance, and insult.

"Man, vain man, drest in a little brief authority."

But it will be necessary that you maintain order, and support authority; because otherwise, the bar will become a bare garden, and intolerable to the practitioner. Rudeness must be repressed, and petulance overawed. Interruption and bluster cannot be endured. Rules of priority as to the right of motion, and order of speaking, must be enforced. In questioning, or cross questioning a witness, the modest and

observant advocate must be permitted to proceed without disturbance. All these things, your own good sense, if you have any sense, good, or bad, must teach you to consider, and apply.

By my showl, said the bog-trotter, but I will take de poker to dem, and give dem over de nose wid a shilelah, if de make any spaches out of deir turn, in my hearing. It were better for dem dey were diging turf in Laugh-Swilly. Dey shall interrupt no good paple in my presence.

That will not do, said the blind Lawyer; you must call a constable; and commit for misbehaviour. It will be descending from your dignity to take a cow-skin, or cudgel in your hand; nor does the law warrant it. "All things must be done decently, and in order" You can lay your hands upon no man yourself. It must be by your officers, that you execute the laws. The sheriff is at hand; the coroner with his rod; or the constable with his staff. These are the ministers of the law in your hands to keep the peace. You can act only by warrant of authority, or what is called a *precept*.

The bog-trotter thought it hard, that he could not take a staff from the constable, and preserve the peace himself. But he was disposed to submit to the restriction since it seemed to be the practice of the court. He enquired, however, whether it might not be allowable to take a batabuoy to de officer, or sharvant of de court, if he did his duty slowly, so as to break de patience of de lawyers, and, and be waiting for him.

As to this, the Lawyer gave him the proper information, and here "*endeth the first lesson.*"

OBSERVATIONS.

IT may seem to shock all credibility, that Teague should have a seat upon the bench.

"Ficta, voluptatis causa, sint proxima veris."

This is a maxim of the critic, and founded in the principles of human nature. For a just taste does not relish what is incredible. But why should it be thought incredible, that Teague should be a judge? Or why distrust his capacity since he had a commission? On the death of attorney Noy, the author of the maxims, we have the following anecdote. Dining with the Chancellor, it was lamented by some, that such a loss had happened: what will the king do for an Attorney General?

When the company were gone, said the valet to the Chancellor; why need you be at a loss for an Attorney General? I will be Attorney General.

You Attorney General! Are you fit for an Attorney General?

Let the king give me a commission, said the valet, and I will see who will dare to say, that I am not fit for it.

There is certainly a great deal in a commission, and the possession of power. I was early struck with this, in seeing the respect paid to the opinion of a man made a justice of the peace, when none had been paid before; and yet the commission had but very

little increased his law knowledge; or, in fact, had left it just where it was; some degress below zero.

It may be thought, that I mean to undervalue in a judge, the faculty of taking notes. On this head I will explain myself. Certain it is, that the taking notes, detracts from the exercise of *memory*; but much more from the exercise of *understanding*. The mind is divided, and the act of putting upon paper, detracts something from the operation of putting in the head. The mechanical, and intellectual are at variance, and in some degree, however imperceptible, destroy each other. The revolution, and composition of forces, produce a line in a diagonal direction. It is impossible that the man who writes, can more than half think. All those relations and combinations of ideas that present themselves, and are managed by him at his ease when he gives his whole mind, are lost in part, or have not justice done them, when they are to be recovered, and adjusted from the partial hints that can, in the mean time, be thrown upon paper. A note taker, and a thinker, on the bench might be of use. The thinker to look over the notes, and assist himself afterwards. The note taker not to think at all; but to mind his pen. At the bar, it was my way, to take in a writer where I had the command of the cause; but it was understood between us, that he was to confine himself to his province for the time being, and neither speak, nor think.

In the history of ancient oratory, tribunitial, or judicial, do we meet with any thing on note taking? In Cicero de Oratore, have we any thing? Has Quintilian a chapter on the subject? No man can be an orator, that dissipates his mind with taking notes. It is a qualification at the bar, or on the bench, extremely subordinate.

Nevertheless, I do not mean to exclude it altogether. A skeleton of the cause must be preserved, for the sake of a reserved point, a motion for a new trial; or in arrest of judgment. It is that full body of the evidence, to which I object. If it is in paper, it wastes the time of the country to copy, and if oral, it turns the judge into a mechanic to take down. It is not necessary for the purposes of justice, to have all that comes out in a cause put upon paper. There is seldom more than a single particular in the testimony of a witness that affects the cause. It is the height of ability to select and take this down. The late chief justice, the governor, had this talent. I have heard the present chief justice speak of it with admiration. The present chief justice (Shippen) himself possesses it in a high degree. Perhaps hits the medium perfectly.

It is in the case of jury trial, that my exception chiefly lies to length of note taking, when the examination of a witness is delayed until the judge, or the counsel takes down; and the mind of the judge carried off from the hearing of the evidence, is not so well prepared to give his charge, which ought to consist of *the resulting points of the controversy*, and not a summing up of the evidence, for that is supposed to have been done by the counsel, or by the jury in their own minds. But a man that is writing all the time the counsel are speaking, can but half think. But these strictures must be taken "with a grain of salt;" and it is not to be supposed that I would dispense with note taking altogether in the case, especially of the presiding judge. On a motion for new trial, some detail of the case, is necessary for those who have not tried the cause.

On an argument upon a law point, where the decision is not immediately to be made, and the notes

are taken for the purpose of examination of the books, it is immaterial of what length, because the counsel are not stopped by the impediment of clerk-ship.

After all, as I am not in the habit of taking notes much myself, and do not like it, and resting a great deal upon felicity of memory, the result of trusting to it, I thought it well enough to argue my own cause, and to see what could be said on behalf of my own way, in this particular, whether it be a defect, or an excellence.

I had forgot to mention, in its proper place, that though the people objected to the taking the blind Lawyer for a judge, yet they agreed that he might be a clerk, and associate the blind Fidler for his deputy. This arrangement being made, the Captain was disembarrassed of this part of the trumpery he had with him, and which encumbered the caravan.

THE settlement in which they now were, was called the back settlement; not because it was farthest back; but because it had been once the frontier. The name *back*, still continued to be tacked to it; now when it had become the midland country.

The inhabitants of this country had become wits, and improved in manners, from society and intercourse. The females dressed better because they could afford it, than they had done years before. Their buildings were of stone, or brick, or of sawed timber, framed, instead of round, or squared logs laid upon each other, as was the mode at an early period. Nevertheless there was still a defect of judgment in the construction of their houses, for the summer, as

well as the winter seasons. They were placed, in most cases, as they ought to be, fronting the south; but without perforations, or a passage for the air, by means of windows from the west to the east. On the contrary, many of them had what they called wings; and these placed at the east and west end. The entries were small, and the kitchen placed in a wing, or at the east or west end of the house. Yet, a little thinking on original principle, would say, that it ought to be at the north east of the building, to oppose the storm which comes from that quarter, in the winter; and because in the summer, it obstructs no breeze in that direction. But it is not *lawyers or judges only, that are enslaved by precedent.*

They take care also, to build in a valley, because it is near a spring head. But in the winter the court yard is muddy; and in the summer they want air.

As they proceeded, the quo' he settlement lay upon the left. This settlement takes its name from the Quo' hees, a nation of Indians that inhabited the country at the first discovery of this part of America. The Munsees, and Shanees, have a like termination in the sound of their names, and these are now the remains of nations that inhabit the countries on Lake Erie, and the Ohio river.

Some fanciful writers, nevertheless, attempt to give a derivation from another source; and think, that as this settlement is peopled, chiefly with what is called the Scotch-Irish, so the name is derived from a phrase amongst them very common in their familiar discourse; quo' he, quo' she, and quo' they, &c. Quo', they suppose to be an abreviation of quoth; that is, said he, said she, &c.

Butler, in his Hudibras, uses the word quoth, in this sense.

Quoth he, there is one Sydrophel,
Whom I have cudgell'd——

Of this they boast as a classical authority in their favour. And, doubtless this etymology is strengthened by the names of the rivers in this country, such as the Susquehannah, which is a compound of sauce quo' Hannah; the name of a girl calling out for sauce to her meat; and also from the Schuylkill, from scull and kill. For what kills a man sooner than knocking on the head? But there is great uncertainty in etymology, in deducing the origin of nations. Abarbanel, in his Jewish antiquities, fully evinces this. Also Spinazoli, in his Asiatic researches; and others. But this is just as plausible, and nothing more, with the hypothesis of some who conjecture that the Alleghany mountains took their name from an English woman, of the name of Alley; as we say Alley Croker, in the ballad. That the Chesapeake was so called from a Welshman, who made use of cheese instead of an anchor; so that instead of saying the anchor is a-peake, said the cheese is a-peake; and so fixed a nick name on the bay. There are some local names of subordinate rivers and smaller streams in this particular part of the country that strengthens these conjectures. Aughwic, is allied to Aughrim, which is a place in Ireland. We have heard of the *break of Aughrim;* a place where the protestants were defeated. Macintanga; Macanoy, is evidently Scotch, from the initial Mac, which signifies son, in the Erse. Juniata is a compound of English and Irish. Johnny is English; but ata, or atoy is Hibernian. I knew one Dennis A'Toy, that used to mow for my father, when I was a lad.

Nevertheless, I incline to their reasonings, who think that quo' he is an Indian word, and of aboriginal derivation.

On the right hand of the route of the caravan, moving back, lay the Fooley settlement. Etymologists and antiquarians are here at war also.

African travellers tell us of the Foola country in the neighbourhood of the Mitomba, or Sierra Leone river. Winterbottom, and Walls, late travellers, give a particular description of it. The natives distinguish the year by *moons*. There is the *sweep-brush* moon; from the wind that blows; *shun-path* moon, from the heat; the shakoo, or harvest moon. The time of day is distinguished by the "sun going down into the water," that is evening; "the sun in the bush," that is night, &c. Their epochas are a town burnt, or settlement destroyed.

The burree, or palaver house, is the seat of justice, where all causes, civil or criminal, are decided. The test of innocence is the drinking *red water* without occasioning a qualm to the stomach. A hot iron applied to the posteriors, is also a test. If the culprit does not grunt, he is safe.

The Mandingo country lies north of this, and signifies book-man, because here they read the alcoran, and have schools. In the Foola country, they have no schools, and cannot read.

Now there are authors, who derive Fooley from Foola; and think that this settlement must have been people by a colony of Africans, and hence derive the name. It is true they have seats of justice, and palaver houses, where the lawyers plead. Jury trials are in use; and in this mode of administering justice it is not the accused that is tortured, but the judges; that is the *jury*. This is not by drinking red water, which is a composition of the bark of trees of an emetic quality; but by drinking nothing at all, or eating either, until twelve of them are all of one opinion; which, to render more difficult, the palaverers, the lawyers, are

allowed to address them a whole day, or longer, previously on different sides of the question or fact, so as to "perplex and dash their councils." There are what are called judges also, who preside, and these are allowed also to give different opinions on the case. The jurors being puzzled are ordered off under the care of a constable, with a staff like a weaver's beam, and he is to keep them together without meat or drink, unless with leave of the court, and without speaking to any one *until they are agreed.*

Notwithstanding this consimilarity in the manners, and the resemblance in the sound, or speaking of the word Fooley, with that of Foola, I cannot immediately accede to the idea that the inhabitants came from Africa. Because there is no tincture of the African complexion. There are negroes and mulattoes amongst them, it is true; but the bulk of the inhabitants are of a clear red and white. I take it that the word Fooley, is derived from the word fool, which signifies devoid of sense, and was applied to them, being originally a weak people; and still continuing to exhibit marks of simplicity bordering upon folly. Their credulity is amazing, and they are the constant bubble of candidates for office. They do not sell themselves as the Foolas; but they sell their votes: or rather give them away at elections, for whiskey, or deceiving speeches, replete with the words *liberty and the rights of man.*

In the course of this day's journey, at the crossing of the roads, the caravan fell in with a company of electioneerers, who were coming from the Fooley settlement, and had a number along, taking them to the election ground, not far distant. They were slapping them upon the shoulder; clapping them upon the back; and saying come along my brave fellow; give us your vote. How are the old people at home? How

came you to get that handsome girl for a wife? Is your crop good this year? Come take a dram of this whiskey. How is it that you do not set up for an office, and not be lying at home in the ashes, supping cider, while we are obliged to go to the legislature, and to fill offices; and keep you at your ease doing nothing. You must take your turn next year. This will never do. Fair play is bonny play. It is too much to be always on duty. But somebody must stand forward, or the people will be run down by the lawyers, and the courts of justice. Come give us a vote.

The Fooleys were all smiling, and in good humour. Not so in the Foola country on the Sierra Leone river, where the inhabitants are sold or bought. It is with great reluctance that they go into service; and some tender scenes take place at the parting of parents and children. It is there called slavery. Here it is called supporting liberty, though it is sometimes sapping it, by putting folly into public trust.

The Foolas on the Sierra Leone, are spoken of by some travellers, as cannibals; but I do not find an agreement upon this head; and the supposition arises, I would presume, from the purra, or state inquisition which is amongst them, when the bandoo woman denounces a culprit. The purra then, who are state officers, take off the culprit, and he must drink red water, or be subject to hot irons. If he shrinks in the experiment, he is carried away, and never more heard of. But this affords no conclusive evidence that they eat him; any more than amongst the Foolas in this settlement, who have been represented by some as cannibals, and devouring one another, because in their kuriouks, or churches, they are frequently denounced by their priests as *back biters*. This means slanderers, and not that they feed upon the haunches

of men like venison. Such are the mistakes of superficial observers, and credulous travellers; whose accounts writers copy, and publish as facts, frequently without due examination.

It is an epocha in the life of a man when he puts on breeches. The heart of the mother is glad when she sees her son run about in pantaloons. A second era is the going to schoool. She bids him be a good boy, and learn his book. It is the father's business more especially, or at least the father has then more to do with him, when he puts him to the plough, or to a trade, or a profession. He gives him lessons and instructions of industry, and morals.

But when he comes to be his own man, at the age of twenty-one; and has a right to vote at an election, what a change does his situation undergo! What a right devolves upon him! I may say a trust for the under age, and for posterity. What honour attaches to his right! What delicacy ought to be used in the exercise of it.

In the age of ancient chivalry, when the youth had come to manhood, and was made a knight, it was with matter of ceremony, and his equipment was by the hand of a fair lady buckling on his armour; and inspiring him by her charms and her sentiments, with heroic sense of honour, and the scorn of all that is false or mean. The chevalier of that day was a conservator of the peace. His prowess was instead of laws. Now the vote of the citizen takes place of the sword of the adventurer. This is at the bottom of all order and subordination. Shall the knight of

the golden cross be free from stain in his atchievements; and shall a republican prostitute his vote, or dishonour his standing in society, by bestowing it on the unworthy? Shall he give away his suffrage for a fair word, for a dram of liquor, "for a mess of pottage?" *It is his birthright.* Shall he give his vote but on the principle of conscience and of honour? Shall he decline his duty to present himself at the election? How does he know but that upon his vote may depend the duration of the republic? Who can tell with what particle of air a pestilence begins? And whether it is from a quiescence of that particle that a stagnation of the atmosphere ensues, or from its activity, by gas from the earth, that a hurricane is produced. A vote given wrong, or withheld, may occasion ultimately a convulsion in the commonwealth.

But truth, artifice, fraud, meditated fraud in this noblest of functions, the all of sovereignty, in a vote, how disgraceful, how criminal! And yet it is not always, or every where that disgrace begins to be attached to this the most flagitious of all knavery. If these strictures, shall have the effect to cultivate a sense of honour in our candidates and in our voters, it will be worth while to have written the book.

CHAPTER X.

THEY were now entering the Lack-learning settlement, where a great uproar had been made on account of their coming. It had been given out that the company consisted of *scholars and lawyers.* This, either from mistake, or the design of wags, who liked to see misconception, even though it occasioned mischief. A multitude had got together, with sticks and stones, to obstruct the march into their country.

It was at the opening of a defile they were met, and could proceed no farther. The Captain himself, advanced with a flag, and with great difficulty obtained a parley, and a conference. Friends, and countrymen, said he, what do you mean? There are no scholars amongst us, save a latin schoolmaster, who has left off the business, and is going to become an honest man, in a new country. We have no lawyers: not a soul that has ever been in a court, unless indeed as culprits, and to be tried for misdemeanors; and that, I take it, is not likely to give them a strong prejudice in favour of the administration of justice. Here is Tom the Tinker; Will Watlin; Harum Scarum, the duelist; O'Fin, the Irishman, and several others, that have no predilection for scholarship. It will be but little learning they will introduce among you.

There is Clonmel, the ballad singer; he can sing, and make a ballad, that is, a song for a ballad; but that is but a small matter.

After all, what harm could learning do you, provided that you did not learn yourselves? The bears and the foxes of these woods do not learn; but they do not hinder men to read books. They have no objection to schools, or colleges, or courts of justice; because it does not prevent them running into holes, or climbing upon trees. The racoons, and the squirrels can crack nuts, maugre all our education, and refinement. "Every man in his humour," is the title of one of Ben Johnston's comedies. If you do not find your account, or your amusement in literary studies, what matters it, if others do? Learning, is not a thing that will grow upon you, all at once. It is a generous enemy, like a rattle-snake, it gives warning. The boy feels the birch on his backside, to make him learned. The man gets a headach, poring over books. In fact, it requires some resolution, and much perseverance, to become learned. I acknowledge that men were at first, like the beasts of the wood, and the fowls of the air, without grammars or dictionaries; and it took a great deal to bring them out of that state, and give them what is called education. At the revival of letters in Europe, after the dark ages, it was thought a great matter to get to be a scholar. Peculiar privileges were attached. Hence what is called "the benefit of clergy."

The clergy, said an honest German. The clergy are the biggest rogues of the two. An honest Sherman minister widout larning, ish better. But the lawyers are the tyvil; with deir pooks, and deir talks in the courts; and sheats people for the money. I sticks to the blantashun, and makes my fence. Larning ish goot for noting; but to make men rogues. It ish all a contrivance to sheat people.

The demagogue amongst the multitude, who had excited this opposition, to learning and the learned, was a shrewd fellow, and it was not that he was not sensible of the advantages of learning; but because he was a sciolist himself, and did not wish to lose his influence by the competition of a lawyer, or a scholar, that he had excited this prejudice. But discovering, that amongst this company, as the Captain said, and which he could guess from the manners, and the countenance, there were really no literati; or what the French call Savans, coming forward, to take a degree of the meridian, or explore antiquities; much less a corps of lawyers to establish codes of jurisprudence, or introduce litigation, he explained the matter to those around him, and reconciled them to the proposition of suffering them to pass through the country.

The Captain expressed his sense of his courtesy, and opportune assistance, towards the object of their progression; and making him a present of a box of jews-harps for the young people, proceeded without farther molestation.

OBSERVATIONS.

THE demagogue of all times, and countries, uses the same arts. The laws are a standing butt of his invective. He cannot be a sage, or a legislator; and therefore must find fault with those that are. The Athenian Cleon, in his harangues, as given by Thucydides, is a perfect model of a demagogue. I have not the book by me, or I would copy one to give a specimen of his art. The oppression of the laws, and the inequality of justice to the poor, are the usual themes of his declamation. But where there are laws, there will be science; and science is the support of laws. Hence the hostility against these, at the same time.

But the passion of the time changes, like the fashions of dress. It is just the same principle that introduces the square toe in the place of the sharp, that also, makes it the rage to be a scholar; or to be illiterate. But the change in the one case is not so much felt, as in the other. It is not attended with such extensive consequences. "Of making many books, there is no end, and much study is a weariness of the flesh." This is the language of a man that had been a great scholar, and writer; because in his experience it had not given perfect happiness, as nothing will, he speaks in these terms. It is not meant to be taken precisely as spoken; and is no more than an expression of the inanity of the noblest of all enjoyments; the mental gratification, of *making or reading a book.*

I therefore think the Lack-learning people had been misled in their prejudice against a literary education. At least, it is my simple way of thinking, and I may be wrong. Admitting this, I shall go on with my story.

PROVISIONS had begun to fail; and though they had a fire-arm, or two in company, with a little ammunition, yet they were not the best marksmen, and nothing had presented itself, in these woods, to take down and barbacue. Harum Searum, was the commissary; but he could devise no ways and means of supplying food, unless by sending a challenge to the game, and calling them out to a duel, where they might be shot at pleasure.

It was thought absurd to suppose that deer or buffaloe, or even wild cat, or opposum, would stand upon *a point of honour*, and come out of the woods, at a card, in the manner of men, piqued upon their courage.

Why not? said Harum Scarum, do not men come and stand up to be shot at, like a post without stirring? Have not men more sense than beasts? At least they have more learning, and boast of their education. I can bring a fellow out to me, almost at a wink; and shall I be at loss with a brute beast, who has not half the prudence, though it may have the same self-love, and principle of preservation.

You may try it said the Captain. I shall wonder a little if the event "corresponds with the intention."

Harum Scarum, having made out his challenge, made choice of Will Watlin, for his second, to bear the cards, and disperse them in the forest.

No answer came, and no bear, or panther appeared or came upon the ground.

The next thing was to post them; which he did and put up billets upon trees. They were to this effect.

"Take notice, that I Harum Scarum, gentleman, do hereby post and publish the beasts of these woods, to be scoundrels, liars, and cowards, of which let all men take notice; that no man of honour may keep company with them; but consider them as poltroons and rascals."

This was what is called the mad-cap settlement; the inhabitants being of an irritable disposition, and apt to take offence. Accordingly seeing those upon trees, as they were looking for their cattle in the woods, they were highly vexed, and put into great passion. Sundry of them had fallen in with stragglers of the company, gathering roots and berries; or looking for a shot; and had come to high words, under a mutual misunderstanding of the circumstance which gave offence. Collecting a large party at a pass, the mad-caps had come forward, and determined to give battle. The Captain saw the necessity of some active measures on his part, and collecting his men, began to form. He had with him, the player on the bag-pipes, and Tom the Tinker, who turned a piece of tin that he had, into a kettle drum, and beat on it the rogues march; which was the only point of war that he could beat. Will Watlin had a saplin of hickory; and O'Flin had his flail, which he brought along with him, not knowing but he might get a job of threshing by the way.

He had now got a job, it is true; but not of the same kind that he meant, wheat at six-pence a bushel; but people's brains to beat out, or their bones to break; a thing as unprofitable as it is unlawful. The Captain being a military man, was thinking of the science, and manœuvres put in practice by the ancients, by which they had gained battles. He was at a loss whether to advance in single column, until within a certain distance; and then halt with the head, while the rear wheeled round, and struck like a serpent with its tail, in the manner Epaminondas gained the battle of Leuctra. Or whether he should imitate Hannibal at—I forget at what battle, with the Romans; and oppose a semicircle, with the convex to the enemy; and which yielding in the centre changed to a crescent, and received the adversary in its horns, which encompassing the flanks, cut them to pieces. He was debating with himself whether he should advance to a certain height; or rely upon an ambuscade among the bushes in the plain, when, in the mean time Clonmel, the ballad singer, struck up a song in the centre, and the mad-caps began to listen; and though they had as many arms as a learned lawyer puts in his declaration: "swords, staves, and knives," they dropped them all, and seemed to return to good humour.

The song of Clonmel was as follows:

What use is in fighting, and gouging, and biting,
Far better to let it alone;
For kicking and cuffing, and boxing, and buffing,
It makes the flesh ache, and the bone.

But give me the whiskey, it makes one so friskey,
But beating, and bruising makes sore;

Come shake hands my cronies, come near, my dear honies,
And think of your grudges no more.

We are a set of poor fellows just escap'd from the gallows,
And hunting a wolf or a bear.
And what with a tail on, except the camelion,
Can live upon fog, or the air?

Some venison haunches, to fill up our paunches,
Come see if you cannot produce,
A barbecued pig; a nice mutton leg,
Or turkey, or bit of a goose.

We have store of good liquor; so bring something quicker;
And club your potatoes and yams.
We'll make a great feast, and turn all to jest;
So away with your frowns and your damns.

There is nothing like love, which comes from above,
And tickles the youngsters below.
It is vain man's own fault, that he so brews his malt,
As ever to cry out heigh-ho!

Alexander and Cæsar, and Nebuchadnezzar,
Found out to their cost this was true;
Now who will be fools, to drink at the pools,
Of ambition, and war, we or you?

The mad-caps were settled like a hive of bees, and coming forward, began to gather in a cluster round the ballad singer. Some took him by the hand, others asked for the keg of whiskey, and in a short time amity was established, and they were as well acquainted, as if they had been together seven years. Several of them knew Tom the Tinker, having served under him, in the western insurrection, in the year 1794. Store of provisions were in a short time brought in, and forage for the Captain's horse and the blind mare. Having refreshed themselves with rest, a day or two maintaining still a good understanding with the mad-caps, and mixing occasionally with hunting parties that shot squirrels, and racoons, who declined to accept challenges, and fight upon equal terms, they began to think of the object of their emigration. Orders were given to put the troops in motion; and taking up the line of march, the cavalry in front, they set out and passing through the mad-cap country, no interruption happened, until they began to enter that of the *democrats*.

This is a settlement contiguous to the mad-caps. The inhabitants are a very happy people no demagogues having yet arisen among them, to propel to licentiousness, as for instance, to propose agrarian laws or an equality of goods and chattles; or to excite them to contention amongst themselves, or to war with foreign powers, in order that they may shew their oratory, attain power, and become something in the state. Such had not yet begun to call out against laws, and the administration of justice; sciolists and young persons, too indolent to acquire solid knowledge, declaiming against rules, the policy of which they do not comprehend; affecting to discuss points in their lucubrations, of elementary jurisprudence, as to form or substance of which, they are as incapable as half a

tradesman at any other profession, could be of pointing out the excellencies or defects of an improvement on the tools, or machines in use. It takes a great general to improve tactics; not a half year soldier just taken from a drill-serjeant. Yet such are the most presumptuous, and never are convinced of their incapacity, until the experiment forms the rejection. But in the mean time, the democratic character is levelled, and incurs the imputation of being unfit for government.

The state of this democracy much resembled that of the Achaean commonwealth; not so much in the form of the constitution, as the principles of the government, and the virtues of the people. I shall take the description of it from Polybius. It is contained in the eulogium which he makes, in the course of his history upon this people.

"From whence then, has it happened," says he, "that, not the people of those countries only, but all the rest of the inhabitants of Peloponesus, are so well pleased to receive, not only their laws, and form of government, but their very names also, from the Achaeans. In my judgment, the cause is, nothing else, than *equality, and liberty*, in a word, *that democratical species of government*, which, is found more just and perfect in its kind, among the Achaeans, than, in any other state. This republic, was at first composed of a small part only, of the inhabitants of Peloponesus; who voluntarily associated themselves into one body; but, a greater number soon joined themselves to them, induced to it by persuasion, and the manifest advantage of such a union. And, some, as opportunities arose, were forced into the confederacy. But they were satisfied with the violence, by which they had been compelled to embrace so excellent a form of government. *For the new citizens were suffered to enjoy all*

the rights and privileges that were permitted to the old. Every thing was equal among them all. Thus, employing the means that were of all things, the most effectual for their purpose, *equity and gentleness*, they soon arrived at the point which they had in view."

When the Thebans, after the great and unexampled victory, which they obtained, against the Lacedemonians, in the battle of Leuctra, began, with the surprize of all, to lay *claim* to the sovereignty of Greece, various troubles, and contentions arose among the people of the country, and especially between the two contending parties; for the one refused to submit as conquered; while the other persisted to claim the victory. In these circumstances, they at last agreed to yield all the points that were in dispute between them to the sole judgment and decision of the Achaeans. Nor, was this preference obtained by any superiority of thought, or power; for, they were at that time, the last of all the states of Greece; but was confessedly *bestowed upon that integrity and love of virtue, by which they became distinguished above all other people.*

This is the real character of democracy; and who, in this view of the character, would be unwilling to be called a *democrat*. Yet there have been revolutions in the public mind, with respect to the honorary, or disreputable nature of this application. It will be recollected, that after the adoption of what is called the funding system, by the administration of the federal government, societies were instituted about the years, 1791—2—3, under the denomination of *democratic societies*. It was the intemperance of some of these bodies, and the insurrection of 1794, which brought a cloud upon these societies, and caused them to be discontinued. Prudent men, and patriots, were wil-

ling to avoid a name which had incurred disreputation from the excesses of those attached to it.

But the errors of the federal administration, or at least measures thought to be errors, having overthrown that administration, the name, before buried, began to obtain resuscitation, and to be able to shew its head in a new existence, and with fresh honours, instead of insult and degradation. The term *democrat*, has ceased to be a stigma; and begins to be assumed by our public writers, and claimed by our patriots, as characteristic of a good citizen. That of *republican*, which alone had been ventured on for some time, is now considered cold, and equivocal, and has given way, pretty generally, to that of democratic republican. In a short time, it will be simply, the *democracy* and *a democrat*.

But how long will this be so, in the United States, or, in these states? Its duration will be in proportion to the wisdom of those who occasionally obtain the ascendancy in the government. It is him alone, "who gathereth the winds in his fists," that can calculate the revolutions that depend upon the temper, and the passions of men.

I call myself a democrat. I will be asked, what is a *democracy?* I take my definition from a speech put into the mouth of Pericles, by Thucydides. It is to the Athenian people. "This our government is called a democracy, because, in the administration, it hath respect, not to a few, but to the multitude: a democracy; wherein, though there be an equality amongst all men, in point of law, for their private con-

troversies; yet in conferring of dignities one man is preferred before another to a public charge; and that, according to the reputation, not of his power, but of his virtue; and is not put back through the poverty, or the obscurity of his person, as long as he can do service to the commonwealth. And we live not only free in the administration of the state; but also, one with another, void of jealousy towards each other in our daily course of life; not offended at any man for following his own humour, nor casting on any man censure or sour looks, which though they be no punishment, yet they *grieve:* so that conversing one with another, for the private, without offence, we stand chiefly in fear to transgress against the public; and are able always to be obedient to those that govern, and to the laws; and principally to such laws, as are written for punishment against injury; and such unwritten as bring undeniable shame to the transgressor." Hob's translation of Thucydides.

This definition or description, of a practical democracy, is drawn from real life. It is in the mouth of Pericles, a man of business; a sapient statesman; who had been bred and born in a democracy; versed in its affairs, and knew its errors, and its excellencies: One thing is remarkable, that a particular excellence which he notices, is the freedom of opinion. Where a government is founded on opinion, it is of the essence of its preservation, that opinion be free. It is not enough that no inquisition exists; that no lettre de cachet can issue; but that no man shall attempt *to frown* another out of his exercise of private judgment. Is it democracy to denounce a man in a paper, because he thinks differently on a measure of government with the editor? It is tyranny; and the man who can do this without reason, or moderation, is a tyrant, and would suppress the right of private

judgment, if he had the power. I distinguish between stricture, and abuse. All depends upon the manner, and the toleration. A man is not always a deserter from just politics, because he cannot agree with me in opinion, on a particular subject. Mutual toleration and forbearance, in our sentiments, with regard to the legality, or expedience of measures, is the soul of democracy. It is that which distinguishes it from despotism, as polite manners the fine gentleman in polished life; in civilized society. In a despotic country, it is the boot, or the thumb screw, or the cord, that brings a man to reason; at least the wheel and the pulley, are used for this purpose. What better in a republic where a man is this day a patriot, and the next day a traitor, at the whim of him who bestows the appellation? In the livid dens of despotism, state prisons are the seminaries of submissive citizens. In a democracy, shall terror issue from lamp-black, and patriotism be put down, under the name of opposition. When a man frowns upon me because I have dissented from in opinion, on a political matter, I discover clearly the grade of his political standing, and democratic improvement. He is no democrat, say I, as another would say, he is no gentleman.

But it will be said, are not your democrats, all noisy, vociferous, intolerant and of a persecuting spirit? I say such are not democrats; they are spurious, and usurp the name. In a government founded on opinion, nothing ought to be a reproach, that is the exercise of private judgment. It is subversive of the essence of liberty. *A frown is the shadow of force, and he that uses the one, would have recourse to the other.*

These observations allude to what is practical in democracy, and cannot be established or prohibited by the laws; but constitute the manners which a demo-

cratic government inculcates, and is calculated to produce; and it will be observable, that there is a great deal of this among the body of the people, who have been accustomed to liberty. It is chiefly amongst the young in *the world*, or young in *the country*, that the contrary spirit shews itself. I am amongst those who carry my ideas in favour of the naturalization of foreigners, perhaps too far. I am for exercising the rights of hospitality to them, to all extent at once; making them citizens, and giving them the right of suffrage, and even office, the moment they set a foot upon the shore. For I cannot see on what ground, we can justify a refusal. But I do not mean to discuss this point at present. I introduce it to shew that I am liberal in my notions, with regard to the privileges of foreigners. But I admit, that it takes some time to give them correct ideas of the limits of liberty. It is, I believe, a saying of the Grand Pensionary, De Wit of Holland, that "it takes a man half an age to enjoy liberty, before he can know how to use it." Nevertheless, I cannot see the inexpediency of admitting to a vote, the emigrant that comes amongst us, the first day he presents himself. He will be instructed by those that have been here before him. He must take his ticket from some one.—Is the ocean afraid of the rivers? Even when they come turbid with the swell of the mountains? The sea clarifies, or they are lost in it. Who complains, out at sea, of a spring flood muddying the waters? This ought to be a lesson, at the same time, to emigrants, that they "use their liberty, so as not abusing it." It is a strange thing to see a man come in the other day undertake to set all right; and to denounce men of age and high standing, as guilty of defection. But what good is there in the world without an allay of evil?

What exercise of right without abuse? If I am wrong it is the excess of liberality.

But I find another principle in the oration of Pericles, in the justness of which, I am more confident. That is, *the equal right of office to all the citizens.* As the greater contains the less, this involves the right of vote. The only *qualification* of which I can have any idea, as justifiable, is that of age; and I should have no objection to see this restricted to a greater age than that of 21,—say 45 years. At this time men cease to be fit for the militia, or other ministerial services. Let them then become legislators, and have the right of vote in *making laws, or chusing those that represent in making them.* This would take off a great deal of wild-fire in our elections, and it would keep away vain young men from our public councils.

What absurdity does the idea of a qualification of property involve! It unhinges the ideas of the ancient republicans; that it was honourable to have enriched the republic, and to remain poor themselves. To be wise a man must be rich. No but to be honest, he must have an estate. But in getting this estate, he may have been a rogue. In general, he must, in some measure, have neglected the improvement of his mind. At least, it does not follow, that in proportion as a man is poor, he is not to be trusted. They are frequently the most generous souls who have amassed little wealth; on the contrary, the most ignoble, who have acquired great property. The man that has set his heart on riches, is lost to benevolence, and public spirit. In the possession of office, he is thinking of what can be made by it. "Nothing can be great," says the critic Longinus, or the stoic philosopher Epictetes, I forget which, "*the contempt of which is great. It is great to despise riches. These cannot therefore be great.*"

But how can we measure the value of property, and fix the criterion? Shall it be real property, a freehold? Is my acre worth more than yours? Shall I have but an equal right? What are the drawbacks upon my estate? My debts and credits? It is the surplus that makes my property, even in the case of the substantial fund of freehold. But property is not the only stake. Person and character, are stakes. Every man that has a head has a stake. There is no proportioning it. In what is impracticable we can have no election. It is therefore an excellent principle of our excellent constitution, that all men have an *equal right of suffrage, and an equal right of office.*

I should not like to live in a republic where a man must be worth so much, to have equal rights; even could it be ascertained what I am worth; which, as I have said, is impracticable. How many men have I passed in life, less industrious than myself, and yet richer. They have had better luck, as we express it; or they have been more selfish, and kept what they got. Can a man that is looking at the stars, mind what is under his feet? We read of most of the great statesmen of antiquity, and virtuous heroes, that they were poor. It is no uncommon thing to find it added, that they themselves were buried, or their children educated at the public expence. The love of science; and the love of the public, is at variance with attention to private emolument. Shall it then be disreputable in a republic to be poor? Shall it operate as a crime and disqualify from the noblest function in society, the enacting laws? But I enlarge upon this only to shew that I am, in my way of thinking, a *democrat.*

But it is not so much, in the extension of the right of suffrage, as in a delicate and just use of it, that the democratic character consists. Will you see a demo-

crat practice unfairness in an election? Go upon the ground to canvass for himself, unless in the case of a ministerial office; and even in this, with great caution, and forbearance. Will you see a democrat, substitute, or change a ticket; much less introduce and obtain a vote for an unqualified individual; no real democrat was ever capable of this. It is with the aristocracy that these arts are practised. They count it robbery to be stinted at an equal vote; and think it no injustice to make themselves whole by taking a plurality by whatever means in their power. This is all a usurpation of the sovereign authority; and in some republics has been punished with death. I own it is a misdemeanour; at least a disgrace; and no real democrat will be guilty of it.

In countries where *the government is a fraud upon the people*, and the right of suffrage where it even partially exists, is but a name; it may be thought innocent to deceive, and to slur our votes. For it is a buying and selling throughout. The candidate buys the vote, and has in the mean time sold himself. He is oftentimes purchased, and paid in advance, and bribes with a part of the money that he gets. Not so in this heaven of liberty, where other stars glitter, where other suns and moons arise; this beautiful world of liberty, in these states. Perdition on the man that saps its foundation with intention; forgiveness, but reformation of error, to him who destroys it by mistake. And yet these last are more to be dreaded than the former. At least as much; because the error of opinion is equally fatal, though originating from a different principle of the mind, and oftentimes founded in virtue.

Who ever saw a democrat keep an open house at an election for a place in the legislative body? They are too poor, says an aristocrat. They are poor be-

cause they are honest, says a democrat. At least, being poor, they are honest. I have seen open houses kept in a republic; and private friendship, or personal safety has sometimes stood in the way of my endeavors to bring the persons to account. But disapprobation, and a portion of contempt has invariably attached itself to the transaction. What man can set the world right? The greatest self-denial is obliged to yield sometimes to personal considerations. Hence it is, that I have often been silent when I saw fraud, and unfairness before my eyes. Fraud in elections, is at the root of all wickedness in the government of a republic. A man of just pride, would scorn the meanness of succeeding by a trick; a man of proper sense would know, that in the nature of things, no good can come of elevation obtained by such means. Success by fraud, will never prosper. All men despise cheating at cards, or other games. He is turned out of company that is found guilty of it. And shall we restrain our indignation; or can we withhold our contempt when an individual is found cheating, not at a game of chance or skill amongst idle men; but in the serious business of real life, and the disposition of our lives, characters and fortunes? I pledge myself no democrat is guilty of this; at least those guilty of it are not *democrats*. They are not true brothers; real masons. They have been made at a false lodge; and will not be acknowledged. Thus it must be seen, I found democracy in virtue; that is in truth, honour, justice, integrity, reason, moderation; civility, but firmness and fortitude in the support of right: quarter to error of opinion; and the aberrations of the heart; but death to ambition, and the vain desire of honour, without just pretension; and death to all knavery, and meditated hostility to the *rights of men*.

Digressing a little, or rather returning to what I have said on the first point, the right of naturalization, I admit that emigrants, come when they will, are likely to be in opposition to the existing government, or rather, administration. This depends upon natural principles. The governments of Europe, are most of them oppressive, and it is oppression that drives, in most instances, the inhabitant from amongst them. The poor, or the most enterprising, are those that emigrate. They have been in the habit of thinking of a reform, in the state of things in that country from which they come; it is natural for them to think that a little touch of their hand may be still necessary here. Did you ever know a new physician called in that would not be disposed to alter the prescription, or to add to it? What occasion for him, if there was not something to be added, or retrenchment made? Or how can he shew himself, but in changing the medicines, or the regimen. Extremes beget extremes in opinions, as well as in conduct. The extreme of government, where he has been, leads to licentiousness in his ideas of liberty, now where he is.

Besides it is in this revolution of administration, if he is an ambitious man, that he finds his best chance of ascending. He is therefore a demagogue before he becomes a patriot. I acquiesce, therefore, in the policy of our constitution, and our laws, who prescribe a kind of mental quarantine to the foreigner; though I incline to the generosity of those who think it unnecessary, and that such a great body of people have nothing to fear from the annual influx of a few characters, that may for some time, carry with them more sail than ballast. We had half Europe with us, in our revolution. We had all Ireland, the officers of government excepted, and even some of these. I therefore, do not like to see an Irishman obliged to perform a

quarantine of the intellect. I think it contributes to sour his temper and to fix a prejudice against the administration, under which the limitation has been introduced. However, this may be more splendid in theory than safe in experience, and I submit to the policy that has been adopted until the constituted authorities, shall think proper to regulate it otherwise. In the mean time, if this book should be read by any foreigner of high parts, and spirit, I would recommend it to him to suspend his judgment upon men and things, until he has examined well, the ground upon which he stands: to repress ambition and the desire of office, until unsought, it comes to him, during which time he may have become qualified to discharge it; and will have had an opportunity of finding out what he will finally discover, *that the best men are the most moderate.*

Intemperance of mind, or manner in a foreigner, gives colour to the imputation, that all are incendiaries. It becomes therefore, a matter of discretion, and just prudence, on his part, to be cautious in coming forward to take a lead in politics, until he has well examined the field of controversy. But because foreigners may abuse the privilege, I would not exclude them by a law, did the matter rest on first principles. I should think myself justifiable in excluding from my society, and the government I had formed, the inhabitants of another planet, could they come from thence; because I do not know the kind of nature they are of; but men of this earth, of similar forms, and of like passions with ourselves, what have I to fear from them? What right have we to exclude them? We are not born for ourselves; nor did we atchieve the revolution for ourselves only. We fought the cause of all mankind and the good and great of all mankind wished well to us in the contest. With

what anxiety did we look to Europe, for assistance. We derived assistance even from the good will of nations. It is an advantage to have a popular cause in a war. Have we a right to shut ourselves up in our shell, and call the society we have formed, our own exclusively? Suppose we had a right to the government exclusively, have we a right to the soil? That is ours, subject to *the right of all mankind.* Pre-occupancy can give a right, but to a small portion of the soil to any individual. To as much only as is reasonably necessary for his subsistence. All the remainder is a surplus, and liable to be claimed by the emigrant. If he cannot get his right under the great charter of nature, without coming within the sphere of our government, and we hinder him to establish a society for himself within ours, why abridge him even for a moment, of the rights, immunities, and privileges of that which we have instituted? But I had not meant to take up this subject, though I have inadvertently fallen into it. I shall drop it here, and go into the sequel of this important history.

CHAPTER XI.

THEY now began to approach the new settlement. This bordering on the Indian country, the inhabitants were presumed to be half savages. It was thought proper therefore, to approach them with a *talk*. Accordingly Harum Scarum, was appointed for that purpose; and taking a saddle girth for a belt of wampum he set out for the frontier.

Passing through a wood, he heard the scream of a panther, and advancing, saw it on a tree. Taking this for a back-woods man, or half Indian, he accosted him in the vernacular idiom of a savage, which he had learned, from the Indian treaties published in the newspapers. "Brother," said he, "do you want whiskey? We have a little in our keg at the camp. We have come here to bury the hatchet. It is two moons since we have been travelling. Our squaws are all at home, or we have none. Have you got a little killicaneeque, that we may smoke the calumet of peace; brighten up the chain of friendship, and sit round our council fires? Our young men are behind with their tomhacks. But the great spirit has taken off the cocks of their guns, and they come to shake hands, and set their traps on these waters."

At that instant a settler, on the other side the wood shot the panther, which Harum Scarum observing, ran in to help off with the hide, and became acquainted with the marksman. This was an introduction, and no farther was necessary. He took the skinning *to be scalping*; and that it was one savage that had shot another, and, as is the way of the world, he determined to take part with the conqueror. Assisting to flay the panther, that was lately his brother, he learned the news of the county town, of the new settlement, and gave account of the Captain, and new-comers, and brought the Irishman along, to taste their whiskey, and conduct them to the village.

It may seem strange that we hear nothing of the Latin schoolmaster all this time; but the fact is, that coming through the lack-learning settlement, they had gagged him, to keep him from speaking Greek; and his mouth was sore for a long time after, so that he could not even speak Latin; but as soon as he got into the village, he began to ejaculate.

In nova fert animus, mutatas dicere formas—
Italiam, fato profugus, Lavinaque venit—
Nos patriam fugimus: Tu Tityre lentus in umbra—

There were several Indian traders in the town, who understood Delaware, Shanee, Munsy, and Mingo, but they took this for Chippewaw, or as they pronounce it, Jibway, and did not understand it. They gave him, however, some boiled corn with bears oil in it, and threw him a skin to lie down upon. Closing his mouth, with

"Odi profanum vulgus, et arceo,"

he fell asleep.

The first thing a settler does, when he goes to the new country, is to look out for a spring. Hard by he builds a cabin, of the stocks of trees, laid at right angles, and forming a square, or parallelogram. A

stone serves for a back-wall, and an aperture over it to give vent to the smoke.

The settler brings with him few implements of husbandry, because he is poor, and has them not to bring ; or the carriage is not in his power, from the want of draught cattle. An axe, a mattock, a corn-hoe without a handle, perhaps ploughirons, an augre, and a saw.

His household furniture is a pot, a frying-pan a kettle, and sometimes a gridiron. A few blankets, and a bed-tick to fill with oak leaves, is a luxury.

A cow to give milk, is almost indispensable ; and the rifle, with a little ammunition sparingly used, supplies flesh for the family. He must occasionally take a turn to the settlement to get a bag of flour, and a quart or two of salt.

His horses, if he has any, range in the woods ; and a good deal of time is spent in looking them up, when wanted for service.

A breeding sow is an admirable acquisition, big with pigs. If he can bring one with him, which is most generally accomplished, he has soon a herd of them, living on the pea vine, that supersedes the casual supply of hunting, and covers the sides of the chimney with hams, just at hand to cut off and broil.

It is of great advantage to the settler to be able to handle a tool, and to lay a stone. It would be advisable, therefore in a father who means to send out his son, when grown up, to the new country, to put him some time to a carpenter, and to a stone mason. His own smithery he cannot well do, as an anvil, a pair of bellows, &c. are heavy to be carried ; but the greatest drawback is, that he cannot resist the solicitations of his neighbours, to assist them occasionally, and this takes him from the main branch of his improvement and cultivation.

The settlement is usually begun in this manner, and carried on by poor, honest, and industrious people. The town on the other hand, at the commencement, is usually a nest of adventurers, that have more wit than money, and more experience than industry.

A tavern-keeper, or publican, that passes for *a republican*, to get custom; a horse jockey, a storekeeper, and a young lawyer, are the first that you find domiciliated in this metropolis.

The young lawyer, that had got to this place, was half starved, either because there was no other *to help him to breed suits*; or rather, which is most probable, because the state of society had not yet so improved, as to draw with it the inevitable consequent of valuable, and individual property, litigation, and law suits. The small controversies that had yet arisen, were determined by *arbitration*. These related chiefly to occupancy, and the rights of settlement; or contracts, *as simple as the subjects of them, and involving no intricacy*. But the inhabitants, either from the love of novelty, or finding the system of arbitration inadequate to the administration of justice, began to wish to have *fixed principles and permanent tribunals*, to govern and guard life, reputation, and property.

Not many months after the Captain had fixed himself in this place, and began to have weight among the people, there was a town-meeting on this subject, and it was proposed to have a code of laws, a court, and advocates, as in other settlements.

Is it possible? said the Captain, being in the habit of speaking his mind freely. In the mid-land settlements, they are going to burn the lawyers, as they did the witches in New-England; and as to judges, it is as much as a man's life is worth to resemble one; either in the brogue of his tongue, or the cut of his jib, I mean his hat; or coat that he wears; such is the o-

dium, under which that profession, or corps of men labour. Arbitration is in every bodies mouth, and *down with the courts.* A lawyer indeed ! Raising the devil was in vogue in the middle ages of the church ; but has been laid aside in christendom, since black cats became scarce, as without them there is a difficulty in laying him ; but what can lay a lawyer, when he is once up ? The hurricane which carries away the hay-stack, is nothing to the breath of his mouth, that bears away people's property, by the fees which he exacts.

It was thus the Captain laboured to dissuade them from the proposition, with as much earnestness, and similar success, as Samuel dissuading the people of Jewry, not from a jury trial, but from monarchy, in the days *when they wished the kings to succeed judges.* And the fact is, that tyranny gets her best foothold on the backs of courts of law, and judges. But those judges had ceased to let the people "every man do what was right in his own eyes," and therefore they wished for monarchs and despots. For if they were not to have perfect liberty, it was as well to be hanged for an old sheep as a lamb, and were unwilling "to halt between two opinions."

But the people of the settlement before us, had an idea that courts of justice were the best preservatives of a republic ; and barriers against monarchy, and despotism. They had got a maxim in their heads, pronounced by the Latin schoolmaster when he rose out of his sleep.

Misera est servitus, ubi Jus Vagum, et incognitum. It is the worst slavery where the law is unknown, or uncertain. And they had found arbitration to decide like the oscillation of a pendulum, and all began to call out for something more stable.

OBSERVATIONS.

WHENCE does the uncertainty of law arise? Let us trace it. There is the *letter of the law.* Litera scripta manet. "*What is written lasts.*" But there is the spirit, that is *the construction* of laws. This depends upon the mind of the construer; and two men may not in some cases, construe alike.

There is again the *application of the rule to the case;* And it is the mind that must apply. The history of these constructions, and applications, are found in what are called *reports.* But this history, like other histories, is not always the truth. No two judges, or two lawyers, will agree precisely in their statements of the same decision. Some particulars, omitted, or added, makes the variance. Yet these are helps to establish the decision.

What is it that can correct the construction, or the application as it was originally made, or as it appears in the report? Reason. It was this at first made the construction, or the application. Hence the maxim, "that nothing which is against reason, can be law."

When the *usage and custom* which makes unwritten law, like the laws of a game at school, are in the memory of men, and the application of them to the case, depends upon two minds, it is morally, but not physically certain, but the application will be the same. But in all these cases, both of usage and custom, or

of written law, there is a *higher degree of certainty* than where there are no positive institutions, or rules at all. Which is most likely to establish certainty in the transmission of usage and custom, or construction of statutes, the occasional application of the law, by arbitrators, who have little knowledge of positive institutions, or tribunals in which records of legal proceedings are preserved, and men are employed, who have devoted their lives to the study, and to the perfect knowledge of which, they do not find a life sufficient?

Visionary men, like Rousseau, and Godwin, have seldom more in view than to support paradoxes. The ability is shewn by the novelty or extravagance of the proposition. Godwin, in his Political Justice, with great brilliancy, supports the idea of deciding every case *on its own peculiar circumstances*, according to the notions of equity, which lie in the breast of the judge. This is what is done in Constantinople. But it is to avoid this that *laws* are enacted, and means used to procure uniformity of construction, and application in a free country. The object is to produce *certainty*.

The imperfection of human judgment produces uncertainty. This must be greater in proportion as there is no buoy to steer by; but a great difficulty arises, in the administration of the laws, *to guard the consciences of men*. Which is most likely to secure this? Tribunals open; and it is a principle of our law, *that the courts shall be open; and shall be held at known times and places*. Can arbitrations have this requisite? It is a principle of jury trial, that the jurors who are to try a particular cause, cannot be known until they go upon it; and after hearing, they are to be kept together without speaking to any one, until they are

agreed. There is not that opportunity for labouring a jury, that arbitration presents.

At the same time, I am not one of those who frown upon arbitrations; or think those unworthy citizens who meditate, or, inculcate the idea of what has been called an *adjustment bill*. I profess myself a *reformist*; and with regard to others who attempt reforms, I am not ready to cry out, "they that have turned the world upside down, have come hither also." I have been for letting the experiment be made. I know the consequence that it will soon be laid aside. Perhaps something might be retained of it that may be found wise. But the difficulty of getting men together, that act not immediately under a compulsory process, and thus keeping them from being tampered with; independent of arbitrary notions of right or wrong, and unassisted reasonings, will be found to be such, that men, who in the sincerity, and benevolence of patriotism, have called for the system in the extent contemplated, will be the first to recede, and acknowledge that there is a difference between what is *rational in theory, and practical amongst men.*

No one can have a greater contempt of pedantry, and opposition to reform *in principle, or practice*, than I have. A professional man thinks himself learned, because he is technical, and knows the terms of his art, as a workman his tools; but has become shackled in forms, and a slave to precedents, and has no horizon of original thought and comprehension. He cannot recur to the correctress reason, or to experiment, the source of improvement amongst men.

At this particular time, there is a fermentation of the public mind with regard to the administration of justice. I have no fear for liberty, provided *the form of the government is left untouched*; for a generous constitution will soon give warning of the malady, and

on an error in reform, a fever will ensue, and demand to be expelled. The wounding, or destroying *a principle* of the constitution, *affects liberty, as taking away the trial by jury in the courts of law ;* or placing the tenure of a judicial commission *on other grounds than on what the constitution has placed it ;* and the like vital parts of the system.

To reform with *safety* requires a perfect knowledge of the subject of the reform. To reform the law, either in its principles, or administration, requires a lawyer ; a scientific, and philosophic lawyer, not a pedant, even though on the bench of justice. Natural narrowness of mind, or technical contraction, unfits for this. But an unreasonable jealousy of professional men is to be avoided. There is such a thing as patriotism even on the bench, and on the bench, *what interest can there be but to lessen service ?* Interest therefore here, is not in the way of extending settlement by *arbitration*, so far as it may be practicable, and consistent with the preservation of the *democracy*. For be assured, *that the recoil of a measure, hurts the authors more than those against whom the ordnance may have been directed.*

But difference of opinion produces ill will. A man and wife will separate on a disagreement which has taken place about the fixing a hen-coop, or laying out a bed of parsley. Christians have burnt each other because the one would say *of*, and the other *from*, and what man of sense doubts, but the burner, and the burn'd were equally good men, The creeds, confessions and commentaries of the one were just as orthodox as the other, but not precisely the same ; *and the nearer they come together the more wrath.* This ought to teach in politics, at least, *concession, and forbearance.*

If objects of sense, mock the senses, and deceive vision, how much more, things in the political or moral world, which we cannot comprehend but by *reasoning*. What a farce it was in the year 1779, in America, to see committees formed from the one end of the continent to the other, instituting regulations of the prices of commodities, at a standing value when the medium of circulation continued to depreciate. The thing was absurd; yet, I recollect Thomas Paine, an uncommon, but uninformed man, was a secretary to a committee, and an enthusiast in the project The committee regulated "that a measure of fine flour should be sold for a shekel, and two measures of barley for a shekel, in the gate of Samaria;" but neither barley nor flour were brought to market, and as there was "no reasoning with the belly," the space of ten days, undeceived the projectors.

The chymist tells us of substances that *decompose*, which is a process in order to the composition of other bodies; but that it depends upon a knowledge of the properties and quantity, whether the ingredients constitute a *poison*, or a *medicine*. So may it be said of the *spirit of reform*.

The practice of the courts in Pennsylvania, is rendered *simple* to what it is in England; and could be still improved, as it would seem to me; either by the law of practice, which the courts themselves have the power of making; or with the aid of the legislature. But it is only a scientific man that understands the system, as a farmer knows his grounds, who can easily and with safety complete the reformation. The law itself, is much improved in Pennsylvania, both criminal and civil, and I am not sensible of much wanting, but in *the organization of the tribunals for its administration*. Now it will not do, to make a law that there shall be no *litigation*; or, *that every man*

shall know the law; for such a law cannot be carried into effect. I doubt then, whether it will be found satisfactory to provide "that every man shall be his own lawyer," and his neighbours judge in the capacity of *arbitrator*.

The excellence of jury trial is sanctioned by immemorial usage; and is secured to a certain extent by the constitution. What is that extent? "*Trial by jury* shall be as heretofore." This mode of trial has its laws. Does the constitution mean that *the laws of this trial* shall be as heretofore? or, does it mean any thing more? It may mean that it shall be the *mode of trial* in the same tribunals as heretofore; that is *the courts of justice*. Does it mean to bar extending the jurisdiction of the justice of the peace, in point of action? This is a great question.

I admit the screwing up the construction of the constitution too tight, the public mind will revolt against it. Driven to a contention, much that is valuable in the constitution might be lost in that torrent which an overstrained construction had produced, like waters in a dam without a flood-gate. The discretion of the legislative body must not be too much disputed. It produces the very effect in some way or other, which the over cautious apprehend. While the great boundaries of the constitution are unbroken, I do not fear much from those laws, which regulate the police of justice, and may be enacted, and continued as the experiment may seem to justify. But I wish to see the democracy move in the groove of our noble constitution; like one of the heavenly bodies preserving its orbit, and bidding fair for perpetuity. For this reason, I am afraid of even experiment, in a case where there is doubt, and which is of great moment and delicacy.

BOOK IV.

CHAPTER I.

IT is full time we return a little, and see what became of the bog-trotter, whom we left in the capacity of judge. This will best appear from a report of a case tried before him, and which has been kindly furnished us by lawyer Tarapin who was counsel in the cause.

REPORT. *Slouch*, vs. *Crouch.*

This was an action of assault and battery, with two counts; the first for assault and battery; the second for an assault. The case as it came out upon the evidence, was as follows.

Upon some ill words given by Crouch, as villain, Grouch, made a blow at him with a cudgel. Crouch crouching, as the name imports, let the blow slip over him, which lighting upon Slouch, broke his head. Upon this Slouch had brought his suit against Crouch.

Lawyer Tarapin moved for a nonsuit, on the ground that the action ought to have been against Grouch,

whose stick, though intended against Crouch, yet trespassed, and hit upon Slouch.

Lawyer Heberden for the plaintiff, thought the action was properly brought, and that Crouch, who gave the ill words that occasioned the outrage, was responsible for all the consequences; that he had no right to take his head out of the way; but that it ought to have remained at its post, which had it been the case no blow could have fallen upon Slouch.

What with the names with terminations, of a like sound, and the intricacy of the case, the judge was puzzled, and getting in a passion, snatched a staff from a constable, and fell upon the suitors. "By my showl, said he, I will be after bating de whole o'd you togeder. A parcel of spalpeens and bog-trotters, to be coming here and bodering me wid your quarrels, and your explanations: better fight it out like men of honour wid a shelelah, and not come here to trouble de court about it."

He had broke the heads of several, and was laying about him with the constables staff, the clerks not being able to interfere because they were blind, and the citizens not being willing because they were afraid; saying the culprits were in the hands of the judge, and it did not behoove them to take the law into their hands, and resist the execution.

However, the result was that the proceeding broke up the court, and the blind lawyer, fidler and bog-trotter had to leave the country.

The bog-trotter followed the Captain, and the blind lawyer and fidler followed him, to the new settlement.

It was just at this time they came in, when the people were in commotion about the courts of justice. It was opportune, and occasioned them all to be provided for by the influence of the Captain. Things were reversed in some measure, from what they had been

in the country below; for the blind lawyer, was made the judge; the fidler the crier of the court, and the bog-trotter a constable. The piper of whom we have spoken, and who was an emigrant with the Captain, there being no bell, or drum in the town, opened the first court at this place, with his bagpipes.

There was nothing now wanting but a lawyer, and that was not a want long; for as one rat brings another, so lawyer brings lawyer. The one here already was soon paired, and these two like stool pigeons, attracted others; so that, in a short time the whole settlement was full of them.

There was now a talk of encouraging a printer. Some thought there were typographical errors enough in the world. However, the people were disposed to multiply them, and accordingly a printer was encouraged. He set up a paper which he called the "Twilight." For, as there was a "dawn" in the east, it seemed reasonable there should be a "twilight" in the west. The Evening Star, and the Western Star have been names of gazettes; but Twilight, for any thing we have heard, would seem to be original. The dawn,

——"That sweet hour of prime,"

In the language of Milton. One of his most beautiful paintings is that in which he speaks of it as introducing the sun,

——————Jocund to run
His longitude through heav'n's high road; the gray
Dawn, and the pleiades before him danc'd
Shedding sweet influence————

The "Dawn" is a modest appellation for a paper, bespeaking the beginning of light. The "Twilight" not less so, meaning that small degree of it which remains after the sun is set. The device was an owl, a cat, and a bat; the owl an emblem of wisdom, the cat of vigilance; the bat of impartiality being of equivocal formation, and doubtful whether bird or beast. At the same time these animals are all of the "Twilight," and therefore appropriate.

The motto by the Latin schoolmaster,

——Si quid superesset agendum.

Clonmel the ballad singer furnished a few verses to introduce the publication. The composition was not the best; but, it was suited to the occasion.

The dawn and the twilight, have both but small sky-light,
Yet pleasant are both in their prime,
For think of the noon, and the hot burning sun.
O, this is a far better time.

Hence name we the paper, and light up a taper
To lighten the clouds of the west.
If not the best skill, yet have the best will,
To make this our paper the best.

We want a little money to begin with, dear honey,
So bring it and take you the news.
Have a little heart, nor be sorry to part,
With a trifle like misers and jews.

We shall tell how the Spaniards, dress hides in their tanyards,
Or curry their leather in France.

And when that we come to things nearer home,
You shall hear of these just at once.

Who's married; who's broken; who is shot, or choken,
By himself, or the hand of the law.
What dress is on foot, who has got a new clout,
To tickle the fancy and draw.

The lads that can write, now let them indite,
And here come speak their own praise;
On politics or pride, or threshing the hide,
Of judges and lawyers now a days.

'Tis all one to us, what the blunderbuss,
So that it but makes a noise,
So down with your ink-pots; thinkers or think nots,
And help out our journal, brave boys.

Harum Scarum was a contributor to the paper, and dealt in fabrications and intelligence. Will Watlin gave dissertations on oeconomies, taming wild geese, and brewing beer out of wasps nests. Tom the Tinker hankering after insurrections struck his hammer on the government. The Latin schoolmaster was now employed as an Indian interpreter, passing his Greek for the Chickasaw; nevertheless found time to furnish a distic or hemistic, or Latin epigram occasionally. O'Fin was a politician, and brought down his flail upon Bonaparte, and said, had it not been for his usurpation, there would have been a republic in Ireland. The bag-piper was a merry fellow, and brought his talents into hotch-pot in the way of es-

says upon *drones;* shewing their use in a commonwealth. Thus few papers were better supported than the Twilight, and it had subscribers. The great variety of talents,

Quoniam sic positæ, suaves misscetis odores,

Said the Latinist—the great variety of talents could not fail to furnish something to hit the taste of every individual; and it is not so much excellency as variety that pleases. The most odoriferous shrub, or rose, ceases to delight, and we turn to another bush, or take up even a less fragrant flower.

The passions having their vent in a gazette, saves battery and bloodshed. In this view of the subject it is an aid-du-camp to the laws; and if it should be thought eligible to extend the province of the press, and to canvass all matters depending in a court of justice it will be an accessary to the practice, and a great acquisition in a free government. But this I leave to the discretion of the legislature.

The bog-trotter wrote little; in fact nothing. He was busy serving process in the capacity of constable; and in one of his excursions met with an accident. He set his foot on the spur of a horse-jockey; which, in this new country, from the prick of the rowler, he took for a rattle snake. Not waiting to look behind him, after it made the impression, and left a puncture like the tooth of a serpent, he made his tour to the town with great howling and lamentation. A ligament was drawn tight about his ancle; and the leg stroked down and the flesh pressed towards the orifice. Cold water from the mouth of a tea kettle, was poured upon the wound, with a steady current from a considerable height. Finally, certain roots, pointed out by the Indian traders, in a cataplasm was applied to the foot, bandaged up for a fortnight, until all appearance, I need not say of poison, for there was none, but all

apprehension of poison, and mortification was removed.

It will not be understood that I record this incident as an evidence of pusillanimity in the bog-trotter. For a man of the firmest mind, might reasonably conceive an alarm at the idea of being bitten by a snake. Such is the horror in the human mind at even the touch, much more the bite of such a reptile.

Milton represents the tempter as seducing Eve under the form of a serpent, and endeavours to render that form amiable, by the art of description.

——————Inclos'd
In serpent, inmate bad, and towards Eve
Address'd his way, not with indented wave
Prone on the ground, as since, but on his rear,
Circular base of rising folds, that tower'd
Fold above fold, a surging maze ; his head
Crested aloft, and carbuncle his eyes ;
With burnish'd neck of verdant gold, erect
Amidst his circling spires, that on the grass
Floated redundant : pleasing was his shape,
And lovely : never since of serpent kind,
Lovelier.

It would seem to me to have been an oversight in Milton to make the tempter assume the snake. For he is not supported by the Scripture. The idea in Genesis is not that the tempter was in the guise of a serpent ; but of some creature which was, for that very act condemned to be a serpent. "Upon thy belly shalt thou go, and dust shalt thou eat all the days of thy life." It is a metanomasia, or post-nomination, "The serpent was more subtil ;" that is the beast which now we call a serpent, was then the wisest of the field. It is impossible to imagine that creature, which would seem to have been changed ; for we

can no more imagine a new creature, than create one. When the poets feign a griffin, it is but a winged beast. The orc' of Aristo is made up of parts that are taken from animals in nature.

But, it is to be presumed that the animal assumed by the tempter, must have been next to the human, the form the most beautiful in nature. The poet represents the transformation as denounced in the garden.

——Without delay
To judgment he proceeded on th' accus'd
Serpent, tho' brute, unable to transfer
The guilt on him who made him instrument
Of mischief, and polluted from the end
Of his creation ; justly then accurs'd.
As vitiated in nature—
Because thou hast first done this, thou art accurs'd
Above all cattle, each beast of the field ;
Upon thy belly grovelling thou shalt go,
And dust shall eat all the days of thy life.

I would have expected the metamorphose at this time and place.

His visage drawn he felt so sharp and spare,
His arms clung to his ribs, his legs intwining
Each other, till supplanted down he fell
A monstrous serpent on his belly prone,
Reluctant ; but in vain, a greater pow'r,
Now rul'd him, punish'd in the shape he sinn'd,
According to his doom.—

Since my first reading of the Poem, I have been struck with the incongruity of representing the animal which the tempter assumed, as being a serpent in the first instance Yet there is classical authority for supposing it possible, that a serpentine form could be the subject, even of affection.

Lovelier ; not those that in Illyria chang'd
Hermione and Cadmus, or the god
In Epidarus, nor to which transform'd
Ammonian Jove, or Capitoline was seen,
He with Olympias, this with her who bore,
Scipio the height of Rome.—

And Dryden in his Ode on St. Cecilia's day ;

When he to fair Olympia prest,
Awhile he sought her snowy breast,
And then around her slender waist he curl'd
And stampt an image of himself, a sovereign
of the world.

Yet strange as it seems to me, the ancients in some countries, appear not to have had this horror of serpents. In the temple of Esculapius, the god himself was said to visit his patients disguised under the form of a great serpent, the caresses of which re-animated them with new hope. Serpents in general were consecrated to this god. " He appears to have had a particular predilection for those found in the neighbourhood of Epidarus, which are of a colour approaching to a yellow, have no poison, are tame and gentle, and love to live in familiarity with man. That which the priests keep in the temple, will sometimes wind round their bodies, or raise himself on his tail to take the food which they present him on a plate. He is rarely suffered to go out, but, when this liberty is permitted him, he walks majestically through the streets, and as his appearance is deemed a happy omen, it excites universal joy.

These familiar serpents are found in the other temples of Esculapius. They are very common at Pella, the capital of Macedonia. The women there keep them for their amusement. In the great heats of summer, they wind them round their necks, like

necklaces. During my stay in Greece, it was said "that Olympia, queen of Philip king of Macedon, had one of them, which she frequently took to bed to her, and it was even added, that Jupiter had taken the form of that animal, and that Alexander was his son."—

Translation of Anacharsis.

Nevertheless, I still think that the more natural allegory in Milton, and better supported by the Scripture, would have been the idea of some creature the most beautiful, as well as the wisest, tempting Eve, and thence as a punishment, undergoing tranformation. So much for criticism.

CHAPTER II.

INACUS founded Argos; Cecrops Athens; Cadmus Thebes in Boetia; Romulus Rome; and Penn, Philadelphia. Now who formed the town of which we are speaking, cannot be said; for it was founded by a conglubvies of mortals like the company of David, in the cave of Adullam. "Every one that was in distress; and every one that was discontented, gathered themselves unto him." Amongst these a broken judge came in, who complained that he was unjustly broken.

A word with you friend, said the Captain. Were you not tried by a competent tribunal?

Yes, said the judge; but the judgment was unjust. Why not appeal? It was the tribunal in the last resort.

What, said the Captain; can there be an error in a dernier decision? What is it, according to yourselves that makes the law, but decision? Precedent is authority. What has reason to do in the case? Once it gets into the books, and becomes a case, let me see what judge can undo it; or question the reason of it. It has become law. *We must take the law as we find it.* If Holt has once said it, the game is up; or Buller; or Kenyon. It is a knock 'im down argument, that Patterson has ruled it so; or Wash-

ington, or Marshal. It is the construction of the judge makes the law. It is the application to facts proved, or admitted, that makes the case; and the application being by the constitutional tribunals, there is no more to be said about it. Positive institutions are arbitrary things, and there is no reason necessary that they are as they are. You a judge, and talk of an unjust judgment, where it has been given by those who alone have had a right to judge. This shews that you were not fit for your office; so turn in there, we shall do the best we can for you; but no more caterwauling about the injustice of your sentence; you sent many a man from your decisions, I will undertake to say, dissatisfied: but the law had determined it; it had become a case; and there was an end of the disquisition.

The judge hung his lip, and turned into a cabin.

A young doctor had come here. What *learning* he had before he came, is not of so much consequence, as what *practice* he had afterwards. One thing he had acquired, the cant of a physician, that had he been called sooner, before the constitution had lost its tone; or nature her diathesis to co-operate with the medicine; a cure might have been effected; and even as it was, by preserving regimen, something might be done. The quack taking care first to find out what the patient liked best; and especially prohibiting that, because, as he knew the indulgence could not all at once be restrained absolutely, it was morally certain, the patient would transgress a little, and furnish the complaint with a pretence to stick by him in spite of the faculty.

A young woman had been found in the woods, naked, gagged, and had been, as she said, tied to a tree. The account she gave, was that she had been taken out of a *nunnery* in Canada, where she had been

educated: was on her way to her father in Kentucky, a rich man; had been robbed of a thousand doubloons by her conductor, stripped of her silks and muslins, and left to perish in the wilderness. Imagination, or philanthropy, saw truth in her history; and she was fed and clothed, not as the law directed, but as humanity dictated, and brought into good company.

At the first discovery of her, she was thought to be a mortal; but in a short time she was conceived to be an angel. There were an hundred that would have married her, had it not been for this distrust of being real flesh and blood. But by this time it began to be found out, or at least suspected, that the nunnery had been no farther off than a city of these states, and under the care of brothers, rather than sisters; and where the employment was something else than needlework. In the opinion of most persons she became a mortal, that had put off her duds; and except in odes or dithyrambics, we hear little farther of her as a divinity.

The preacher of the town was a methodist that had been a horse thief; and when he had taken his text and was warning from the like offence, and telling the danger of it, he would put back his wig, and say you see, I have lost my ears by it.

Ecce signum, said the Latin schoolmaster;
Segnius irritant animos demissa per aurem,
Quam quæ sunt oculis subjecta fidelibus.

At an early period, the ceremony of marriage had been dispensed with, in this town, as is the case where there are not magistrates or priests at hand to officiate, and make the legal copula, or knot of marriage. Diana, and her nymphs; the three graces, and the nine muses, are represented as not marrying at all. It is to be presumed, that it is owing to the same cause, the absence of the justice of the peace,

or the parson. But it is always spoken of as the first step towards civilization, the coupling in marriage.

————Sancire leges.
Concubitu prohibere vago.

The Captain being elected governor of the new state, paid attention in the first instance, to this matter of police, and directed the girdle of hymen, to be added to the zone of Venus, in all cases where it had been yet wanting. The settlement in a new country, is in some respects delightful; the country in its virgin state; before the underwood is browzed upon, and the luxury of flowers, and shrubs is repressed by the beasts of burden, or the labours of the husbandman. It has seemed to me that the streams run clearer in a new country than the old; they are certainly more abundant. The cultivation of the soil uncovering the vallies, lets in the rays of the sun, which drink up the moisture, and open fissures in the earth, where the streamlets sink and disappear. Hence it is that we read of brooks, and rivulets in the classic and long cultivated countries, which bubble now, only in the song of the muses.

"Sunk are their fountains, and their channels dry."

The natural moss on the margin of the fountains and the rivers in a new country, are greener, and furnish a more romantic seat,

Saxo sedilia vivo,

shaded by the umbrage of the forest than the clover of the meadow; or the artificial bank and bowers of the garden itself. How delightful the small parties that are made upon the water of the rivers in skiffs, or canoes, or in the shades of the forest, and near a spring head, at a fete champetre or barbecue, where the company assemble, nor yet divided by the classifications of wealth or pride. I do not wonder that the young people of the Israelites were apt to be seduced

to sacrifice "in high places, on hills, and under every green tree," even though prohibited, inasmuch as these situations were so delightful, at least in the summer seasons.

"The flowers of the forest are a' wed away," in the old school ballad, is a fine expression; for the flowers of the "forest" are unquestionably of a more lively bloom, and finer odour than those of a garden; and that atmosphere of fragrance, which from a wilderness of verdure, pours upon the senses, overwhelms with delight. There is no ague, or fever here, for the exhalation from the foliage, is aromatic to the smell. The gale is not tainted with miasmata. The air is a bed of perfume and the vapour tastes of nectar and ambrosia.

Such scenes, and such air must be salutary. Whatever the component parts or qualities, hydrogen, or oxygen of which the chymists speak, certain it is that the air breathed from plants and flowers is favourable to health and longevity. Inhaled by the lungs it is restorative to the tabesscent, and as a vapour bath to the whole body is salubrious. A ride from the sea coast to an ultramontane settlement in the spring of the year is resuscitation to an almost dead constitution.

But it would seem to be owing to other causes than mere bodily vigour and health, that the inhabitants of a new country, appear to have more intellectual vigour, and in fact more understanding in the same grade of education, than the inhabitants of an old settlement, and especially of towns and cities. The mind enlarges with the horizon. Place a man on the top of a mountain, or, on a large plain, his ideas partake of the situation, and he thinks more nobly than he would under the ceiling of a room, or at a small country seat.

It may be that the change of situation gives a spring to the mind, and that the intercourse with that variety of characters which emigrate, increases the stock of knowledge. Whether owing to these, or other causes, it unquestionably appears to me, that the ultramontaneer, is in general the superior man, in the same occupation, and pursuit in life. This would seem to hold good out of the learned professions which require a propinquity to the libraries of Appollo, as well as the seats of the muses ; but we have in view chiefly that natural sagacity, and discernment of spirit, and strength of mind which constitutes mental superiority. Perhaps it may be that the most active spirits are those that emigrate ; or that people put to their shifts which is the case in a new country, acquire a vigour of mind, proportioned to the exercise.

There is one thing observable that in a new settlement, society is coveted, because it is scarce ; and mutual wants produce reciprocal accommodation. The emigrants coming also, from different quarters, and hitherto unknown to each other, do not bring with them latent, or professed enmities ; and the mind, ira, amicitia, vacuus, is open wholly for new impressions. Family feuds, of an old standing, or of recent inception, do not exist. The absence of all chagrin is a state of mind more easily coveted than explained, either as to its sensations, or as to its consequences. But it is a main spring of happiness in a settlement, that the improver begins upon a new plan, and upon his own scale ; and he has his shades, and his avenues at once, without waiting for the trees to grow. There are neither ruins, nor vestiges of decay before his eyes, but a young country receiving young cultivation ; just at the will of the possessor, without the necessity of sacrificing taste to what had been

begun, and half finished. Suffice it to have said these things to the encouragement of young people who may not be well provided for by those before them, and are disposed to seek their fortunes dependent only on themselves.

CHAPTER III.

THE Captain in the capacity of governor, began to turn his thoughts towards government; and considered with himself what had been the means of governing men, from time immemorial. This he found might be comprehended under two general heads, *fear and affection.* The *priest* is an adjunct of fear, because he holds out the horror of what is to come, or is invisible.

What the origin of sacrifices? The true religion ordained them being of mystical type and signification; the false, in order to be like the true, and also, because not having tithes, these became doubly necessary for subsistence. For when a bullock was offered up to the gods, the smell went to them, but the taste to mortals. It was not that any thing could be got out of viscera, that tripes were inspected; but because this could not be done until the cow was killed; and in that case, *the priest got a beef-steak.* What contempt would one entertain of the Haruspices, poring over the entrails of cattle, in order to ascertain the events of futurity, if he had no idea, all this time that it led to a *barbecue.*

Having discovered this, he would do the past ages more justice, and would be disposed to acknowledge,

that men were not just such fools, heretofore, as he had thought them to be.

But what the origin of human sacrifices? That has a deeper foundation. It was not that the Gentiles devoured them; or were cannibals. But, it was a state engine, and under pretence that a human victim was desired by the gods, some individual obnoxious to the government, was pointed out by the priest, in collusion with the officer, and made the holocaust. We have a proof of this from the poet Virgil, who puts a tale into the mouth of Sinon, viz. that a victim being necessary to procure a favourable wind to the Greeks to return home, Ulysses having a grudge on an old account, got Calchas to denounce Pil Garlick, as the one the gods had pitched upon; and accordingly being marked out for the altar, he had run off. In the Foola country, according to Winterbottom, whom we have already quoted, the bandoo woman is made use of by the Purra, to single out the culprit that is to go to pot, and be knocked on the head. In the South sea islands, it is the usual policy. A letter from a missionary at Otaheit, tells us that the emperor of that island, lately dead, had offered up in his time, at least, two thousand human persons. These were, doubtless, such as had been in opposition to the administration.

Lettres de catchet, had answered this end in France; the inquisition in catholic countries, which was an ecclesiastical tribunal, served the same purpose.

The clergy in free states, are useful to government; but not in the same way. It is by inculcating obedience as a divine precept, and a moral duty. This is the only "alliance of church and state," that exists in this country. Or if the clergy here do not touch upon politics at all, yet by teaching such doctrines as lead men to virtue, they make them good citizens.

Even the Calvinist, though he talks of nothing but faith, and *spiritual affections*, yet produces the effect of good works. So that in fact he comes to the same point with the Arminian who talks chiefly of good works.

In the ancient republics, founded like ours, on *reason, and the laws*, the power of speech was the great means of keeping men together. Hence the orators of the popular assemblies. With us the press is the great pulley, by which the public mind is hoisted up, or let down to any sentiment. It is a wonderful block and tackle, so to speak, on board the state ship. It can overthrow a good administration, and for a while support the bad. But the press cannot exist but by liberty. Nevertheless the freedom of it may be lost by its own exertions. The intemperance, and indiscretion of the journalist, propels to popular excesses, which subdue the laws; and bring despotism. See the French revolution.

These were the reflections of the governor, who thought it fortunate that a press had been established in his government as a vehicle of information, but was a little afraid of some of the correspondents; *Harum Scarum; Tom the Tinker; Clonmel the ballad singer; Will Watlin, and others. O'Fin the Irishman*, was an excellent flail man; but threshing grain, and threshing in a newspaper, require, if not different powers of mind, yet at least different cultivation. He was an honest good hearted fellow; but as on a barn floor, an unskilful, or careless person will bring the voluble end of the jack-staff about his own head; and hurt; so it is with a politician who enters the list with a view to do good; but, from mistake of the true interest of the body politic, does harm.

Under this idea of the effect of a journal to guide, or mislead the public mind, the Governor solicited an

interview with the editor of the "Twilight." After such introductory compliments and observations as may be presumed on the occasion, the governor insensibly drew him (the editor) into a conversation on the subject of the press, and his gazette in particular. Editor, said he, your good sense I know, and your patriotism; but I am afraid of your being a little too much carried away with the spirit of the times, oeconomies; dissolution of courts, disuse of codes of law, and invectives against lawyers. There is a medium in all things This may be carried too far Would you not think it prudent to restrain this downhill speed a little. As to attacks upon the administration, or the policy of measures merely executive, or even the constitutionality, or expediency of a law, I should think the greatest freedom may be used; or the public conduct of men in office may be canvassed; though, by the bye, I should not think the public had any interest in their amours, their costume, as for instance the cut of their pantaloons, or the colour of their breeches; or peccadilloes, even in the breaches of decorum. Such restriction may perhaps be laying an anchor to windward in my own behalf, as I am not the most exact of all men in these particulars. But I ask or wish for no indulgence, on the score of official acts; let them be the subject of your examination, and strictures. At the same time, taking the rule of humanity for your guide, as expressed by the Poet.

"Nothing extenuate, or set down aught in malice."

But I advert chiefly to such sentiments, as poison in respect of the elementary principles and constitutions of government itself, and the prostration of those establishments on which the security of *property*, *reputation* and *liberty depends*.

You will assign us typographists a very narrow sphere, indeed, said the editor; and you will strike

away from us the *footstool of all our popularity*. What is t to the macaronie, whether you acquire territory to the republic, or lose it; but what is the fashion of your boot, or the cape of your coat? What is it to a female, whether you wisely sanction a remedial act by your approbation, or negative it? But whether you keep a mistress, or ever had one. The taste of our subscribers is as various, as their faces, and we must please our subscribers. Every body can understand scurrility, but it requires one to knit the brow to take up a report on the finances. As to the taste of the time, we must fall in with it, if we mean to keep on the popular side of the question. The rage is now oeconomies, and down with the lawyers. We cannot avoid barking in a little. You are not to take it for granted that we speak our own minds in every thing you see in our papers; no more than an advocate who is employed on the wrong side to plead: it happens to fall to his lot, and he finds his account in it.

Cannot you fill up your journal, said the Governor, or at least a great part of it, with essays on agriculture; experiments in chymistry, mathematical problems, or love adventures, years ago, or at a great distance? Let the governors, and the laws alone, since you cannot speak of them just according to your own judgment.

That would never do, said the editor. The public would not take half the interest in it. Finding fault is a secret satisfaction, and the source of great delight to the human mind. Hence slanders in society. Why not much more in public life? When a man builds a cabin, it pleases us to object to the plan, or something done about it; much more when the subject of our remark is of a high and noble nature, such as a measure of the executive.

The fact is, a newspaper is a battery, and it must have something to batter at. Where the editor is a friend to the executive, or the legislative part of the administration, he must make a butt of the *judiciary*. It is against this he must bring his catapult, or battering ram, to bear. Fortunate the man who is unentrammelled with any attachments, or restraints, of affection, gratitude, or obligation: he has the whole before him, and he is not under the necessity of slackening his efforts, at one angle, lest he should affect another. A clear field, and no favour. That is the province of the printer. An advocate seldom finds it his interest to be retained by a suitor altogether. And as to building up systems, that is what we do not so well understand. We leave that to the sages, and philosophers, with whom we are naturally at war. It is not our fort; every man has his faculty. One to spin a rope; another to pick oakum.

Well; said the Governor, you must take your own way. I had no idea of shackling the press, but only of suggesting such hints, as might conduce to its credit, and the good of the community.

I do not know, said the Governor to the Chief Justice; the blind lawyer who was present; the editor now withdrawn; I do not know, said he, whether, notwithstanding my observations to the printer, something might not be done in settling suits, and composing differences in matters of property without such extensive codes of jurisprudence and court trials, with advocates, and endless speeches. I should like to hear your idea on this subject, Chief Justice.

Might we not do without such struggling to exist in other respects, said the Chief Justice? The acre must be grubbed; the maize planted; the sickle is necessary. Why clothing? at least why taylors. Skins, or a plaid might answer. Why houses? It

is probable that mankind had tried the acorn; the bear skin; the cave, or the hut before these. Must they return to this state, to see whether they cannot now do without them?

The presumption is, that before laws, men had tried what it was to dipense with them. Jury trial would not seem to have been an invention, all at once like the cotton loom by Arkwright. It is probable that it was considered an improvement upon arbitrations, when it first came into use. But it would not seem to have been adopted all at once, but to be the result of successive amendments. In fact, it is nothing *but a mode of arbitration by the vicinage, uniting with it the advantage of a court to inform us to what the law is, and furnishing an executive authority to carry awards into effect, and execution.*

This trial is of immemorial usage, and hid in deep antiquity. If we had its history, it would be seen that its laws, are the result of gradual accession; and these added from an experience of defect. Just as in our own time, and in these states, we find amendments, or at least, changes in the summoning, return, impanneling, or serving of juries.

The privilege of counsel in capital cases; as to matters of fact, or witnesses on oath, is but a late acquisition in England. And the presumption is, that at least, as to the privilege of counsel, it did not originally obtain in *civil cases.* But that the prerogative of the crown had impeded this improvement in the criminal laws, so that it did not keep equal pace with that in the civil. Yet with us it begins now to be thought a grievance to have counsel in any case. It seems to be a wish of many to try a system of judicial determination without it.

What would be the effect of the experiment of simple arbitration? Said the Governor.

An injury to credit, said the Chief Justice; men would not so readily give trust, knowing that the screw of the law was relaxed, and they could not so readily recover what was due to them; of course, it would reduce contracts; and bring matters to the immediate exchange of money, and commodities.—In the third place, it would shake the security of property, real and personal; on account of the uncertainty of holding it, the rules of evidence being rendered uncertain before a tribunal having no rules; and also on account of having no principles of contract or use, but the notions of right and wrong, in the breasts of the auditors; and these as changeable as the different sets that sit upon a controversy.

In the last place, it would check, if not put a stop to all improvement. A great object of the social compact, is the security of private property; the ascertaining and protecting the meum and tuum; the mine, and thine of possessions. With sovereigns the ultima ratio regum, is the means of redress in case of an invasion. Of trespass with individuals in a state of society, what else but the laws? and what are laws without tribunals to lay down and enforce them? tribunals, not casual and temporary, but fixed, and moving with set times, and the regularity of clock work; tribunals who have rules of property as well understood, and as certain in their applications, as the laws of gravitation, or magnetism. When the Barons met at Runningmede, did they complain of any thing more than the delay of justice. Nulli negabimus, nulli deferemus justiam, is a provision of Magna Charta. Could there be steady justice, otherwise than by a proper organization of courts and juries; Not unless we take the short way of despotism, and appoint subordinates with a prompt power, and arbitrary discretion. Trial by jury and the constituted

courts, had been in use, time out of mind, before Magna Charta, and more than eight hundred years since, it has been tolerated; nay prized, and the constant subject of eulogy; notwithstanding what I consider as that which might be the subject of amendment, the *principle of unanimity*. It ought not rashly to be changed, in *the essential law of its nature, that it shall be annexed to a court where men sit, who are learned in the usages, and customs, or written laws of the society*. Human wisdom never has devised an equal mode of uniting the means of *ascertaining fact, and applying law*. It is the life-giving principle in this regulation, that the jury and the court are associated in the trial, and that one cannot move without the other. As to the mode of bringing forward juries, by return of the sheriff; by a special jury, selected in the manner known, or by election of the country, these are particulars of a lesser nature, and may be the subject of modification from time to time, and yet the vital principle preserved. But the moment, the tribunals of fact and law are separated, the *talismanic charm is gone;* that which was never understood before, will then be felt.

But, said the Governor, did they not lay aside law judges, and attempt the system of mere arbitrament in France, during the revolution?

It would have been matter of wonder if they had not said the Chief Justice. When the cord from its extreme tension is let go, it vibrates nearly as far on the other side of the circle to that from which it had been drawn. What could you expect in return from despotism but the opposite extreme? In the state of the public mind, in France, what was there to arrest at a medium? Was it natural for the precipitancy of the national will, to stop short of the utmost latitude?

You might as well expect the stone of Sysiphus down hill, of itself, to stop short, at a proper point.

Of what account was it, what the mode of settling disputes, relative to property in France, at some periods of the revolution? Proscriptions brought owners, and possessors, so quickly to the guillotine; and conscriptions took them so hastily to the cannons' mouth, or the bayonet point, that it was of little consequence what the tribunals of justice, or of litigation. But had they the trial by the vicinage there to lose? Or, have they continued to do even without judges? Bonaparte, you may say, has given them courts. If he had let them alone, they would have had them of themselves, unless anarchy had continued, or some other sovereignty of a like nature had taken place.

What was the law in France before the revolution? From what sources drawn? The *Roman civil law.* Not this only, but usages, customs, and written laws of a general or local nature, derived from their Gallic ancestors; or from the Goths of Franconia; from the law of nature; from the law of nations; from municipal institutions, and a thousand sources as numerous as the springs that make the rivers of their country.

Could not property be held and adjudged without a knowledge of all these? Said the Governor. No more than you could breathe without the atmosphere, unless another atmosphere be given you. For what is property, but that *which is peculiarly my right?* And what constitutes it my right, but the laws under which it was acquired, and to which it is subject?

Is this Roman civil law, that you speak of, a thing of much extent? Said the Governor.

It is as extensive, said the Chief Justice, as the common law with us, or as any law must be, that arises out of the concerns of a great community, or is

provided for it. Romulus made regulations; Numa institutions; the plebiscita, or resolutions of the tribunes, and the commons; Senatus consulta; judicia pretoris; responsa prudentum; these continued in the twelve tables, institutes, pandects, and commentaries, are grounds of that law, which on the decline and fall of the empire, was incorporated by the barbarous nations on their codes, as they became civilized, and an agricultural, and commercial people. It is the experience and wisdom of ages which can alone provide for the cases of difference in matters of claim or right amongst a people. It will require the application of years in those who administer these laws, to acquire a knowledge of the rules established relative to them, and which rules, by the change of property under them, have become as much the right of the citizens as the property itself. For the laws of property go with it; and is the right of the purchaser; and as much a part of his estate, as the charters and documents that constitute the evidence of the acquisition. A bit of a manual or collect of the rules of a legislative body, will fill a duodecimo volume; and yet how small a part is this of the "law of parliament," which embraces privileges, immunities, laws of election, and expulsion, &c. &c. &c. And in the code of the community, there are a thousand chapters of law more extensive than this, and equally important to be known, and every day in use by the whole of the people. So that the disuse of lawyers, judges, and courts, or superseding the necessity of them by novel institutions, is what will be found impracticable consistent with government.

Nevertheless, said Harum Scarum, who had just come in, and heard the concluding part of what the chief justice had said, Harum Scarum, whom the governor had just appointed secretary: Nevertheless,

said he, so it is, that nolens volens, the people will have the lawyers and the judges down. They may let the chief justice alone a while, because he is blind. There is a generosity in men that leads them to spare the miserable. But as to lawyers that have their hands and judges that can see, down they go: every day has its rage; ca ira, it will go on. The Marseilles hymn need not be sung to this. Marchez, Marchez; Marchon, Marchon. It will march of itself, quick step. There needs no drum beat, or fife to play. So much for the lawyers; they are under way, and down they go.

Every day has its trumpery of opinions, and pursuits; obstinacies, and predilections. We had the age of swindlers some time ago. Every man that had a mountain, or no matter whether he had one or not, he sold the top first, and then the bottom. For though you lawyers say, chief justice, that Cujus est solum, ejus est usque ad Coelum; yet we have no such maxim as usque ad Tartarum, and so he might sell the bottom, and by the bye, represent it as level, and well watered, which he could not always say, with a good conscience, as to the frustrum of the cone, whether the parabola, or the hyperbola. It was not enough for the swindler, to purchase or sell lands that were neither in the moon, or "on the earth, nor in the waters under the earth;" but he must go to the ring of Saturn, and the planet Herschel. There was no end to deception on the one hand, or credulity on the other.

But we have seen this age pass over, and now is the age of *oeconomics*. A man wears spectacles, or a clout on his eye, to save daylight; his shirt above his coat in the day time, and sleeps in his coat at night, to save his shirt. It has got among the very Indians. A sachem runs with his back-side bare, to

save his breeches, but wastes as much oil on his posteriors to keep them from muskitoes, as would buy overalls, or pantaloons, to hide his nakedness.

Harum Scarum, said the governor, you are an extravagant fellow in your painting; you exaggerate. I expect better things from the people, than such derangement in their ideas of policy. But, in the mean time, let us take dinner.

Note. There are two problems in politics, which have some difficulty in the solution. The one is the power of the judiciary, to adjudge a law void on the ground of *unconstitutionality*. The other is that which we have just touched upon a little, in the preceding chapters; viz. the practicability of adjusting civil controversies by *arbitration*.

On the first point, we find a precedent in the government of the Athenian people. I shall quote from a translation of the "travels of Anacharsis the younger."

"Amidst that multitude of decrees, we see from time to time enacted with the sanction of the Senate, and the people, some there are in manifest contradiction to the welfare of the state, and which it is important not to suffer to subsist. But, as they were the acts of the legislative power, it should seem that no authority, no tribunal is competent to annul them. The people themselves should not attempt it, lest the orators who have already taken them by *surprise*, should again mislead them. What resource then shall there be for the republic? A law singular indeed at first sight, but admirable in its nature, and so essential as to reduce it impossible either to suppress or

neglect it, without destroying the democracy ; I mean the law that authorizes the very *lowest citizen to appeal from a judgment of the whole people*, whenever he is able to demonstrate, that the new decree is contrary to the laws already established.

In these circumstances, it is the *invisible sovereign*, it is the laws which loudly protest against the national judgment that has violated them ; it is in the name of the laws that the accusation is brought forward ; it is before the tribunal, which is the chief depositary and avenger of the laws, that it is prosecuted ; and the judges by setting aside the decree, only pronounce that the *authority of the people has happened to clash unintentionally with that of the laws ;* or rather they maintain the ancient and permanent decisions of the *people against their present and transient inclinations.*

On the second point, I meet with a precedent, in the same state, the Athenian, and I quote from the same book. "I cannot overlook an institution which appears to me highly favourable to those, who, though *they appeal to the laws*, wish not to be litigious. Every year forty inferior judges go the circuit through the different towns of Attica, hold their *assizes* there, decide on certain acts of violence, and terminate all processes for small sums, *referring more considerable causes to arbitration.*

These arbitrators are all persons of good reputation, and about 60 years of age. At the end of every year, they are drawn by lot, out of each tribe, to the number of 44.

Persons who do not choose to expose themselves to the delays of ordinary justice, to deposit a sum of money previous to the judgment, or to pay the fine (damages) decreed against the plaintiff, failing in his proofs, may confide their interest *to one or more arbitrators nominated by themselves*, or whom the Archon

draws by lot in their presence. When the arbitrators are of their own choice, they take an oath to abide by their decision, from *which they cannot appeal*; but if they are chosen by lot, they are not deprived of that resource; and the arbitrators, inclose the depositions of the witnesses, and all the documents of the process, into a box, which they carefully seal up, and transmit them to the Archon, whose duty it is *to lay the cause before one of the higher tribunals*.

If the Archon has referred the matter in dispute to arbitrators drawn by lot, at the request only of one party, the adverse party has the right, either to demur against the competency of the tribunals, or to allege other exceptions.

Arbitrators called upon to decide in affairs where one of the parties are their friends or relations might be tempted to pronounce an iniquitous judgment: in such cases, it is provided, *that the cause may be removed into one of the superior courts*. They might also permit themselves to be corrupted by presents, or be influenced by private prejudices: in which case the injured party has a right at the expiration of the year to prosecute them in a court of justice, and compel them to defend, and shew the reasons of their award. The fear of such a scrutiny might likewise induce them to elude the exercise of these functions. But the law has provided against that by *fixing a stigma on every arbitrator who when drawn by lot, refuses to perform his duty*.

The idea of *an action against an arbitrator for a wrong judgment*, involves this, that the court above must judge of his judgment. The *jury trial* had not got quit of this under the shape of an attaint until the *granting new trials* took place. It proves that arbitration has been brought to perfection in the present state of trial by jury, *in the presence, and under the direction of the court*,

CHAPTER IV.

A NOISE was heard coming down the town, and a cavalcade accompanying. It was Clonmel the ballad singer followed by the piper, and the blind fidler; the one with his bag-pipes; the other with his violin. Will Watlin was along and had a bottle in his hand; Tom the Tinker, O'Fin the Irishman, the Latin schoolmaster, and a number others. The song sung was as follows:

COME gather away to the new town,
There's nothing but lilting here,
And piping and singing and dancing,
Throughout every day of the year.
No maid that comes here but gets married,
Before she is here half an hour;
The brown, the black, or the hair red,
To live single is not in her power.
Come gather away, &c

We get our provisions for nothing;
Just knock down a wolf or a bear,

The wear and the tear of our clothing,
A dress'd skin, or just in the hair.
No trouble, no bubble, no sweating,
Like people that live in the smoke,
We catch the fresh fish with a netting,
And roast them just under the oak.
Come gather, &c.

Our governor is a fine fellow,
Chief justice as blind as a bat;
The governor sometimes gets mellow,
And blinks himself like a cat.
No lawyers are here but a couple,
Just enough to keep up the breed,
The word of their mouth is a bubble,
And not worth a copper indeed.
Come gather, &c.

We have a fine printer a devil,
To whack at their fees and the court,
Because that the rascals can give ill
Opinions that do us much hurt.
Good fortune, we have little money,
To quarrel, and law suit about;
So turn up the bottle, dear honey,
But see that you dont drink it out.
Come gather, &c.

The air of this country is clearer,
The water is clearer by far;
The words of our wooing are dearer,
Such words as a body can spare;
When we smother the maids with our kisses,
And they smother us in their turn;
I swear by St. Patrick that this is,
The best country that ever was born.

Come gather, &c.

The lads they go out a racooning,
Or take at a squirrel, a shot,
If they knock down a fowl, they are soon in,
To shew what a fowl they have got.
Great shame to the Paddies below stairs,
That live in the country below,
Lie snoring, and sleeping on bolsters;
And lounging one cannot tell how.

Come gather, &c.

Up to the mountains bog-trotters;
Our shamrocks are fresh, and are green.
Set traps for your beavers and otters,
And musk-rats the best ever seen.
Though I am too lazy to rough it,
And go to the waters with you,
Because I have had just enough 'f it;
Don't like to be rich as a Jew.

Come gather, &c.

O, what is life but a blister,
Put on we cannot tell where ;
And sorrow herself is a sister,
To thinking, and much taking care.
So let us be jovial, and jolly,
And make out as well as we can ;
Who knows whether wisdom or folly,
Makes the better or the happier man.

Come gather, &c.

The drone of the piper ; the screeching of the violin, and the voices of the multitude, made such a noise that one would have thought they were in Dublin ; and had it not been that Harum Scarum looking out saw what it was, the Governor would have thought of issuing his proclamation to keep the peace ; but the cause being understood there was found to be no necessity, and the secretary with the leave of the Governor took a turn with them. The editor of the journal seeing this came out. The two lawyers filed in, a pedlar, and the bog-trotter. Being all together, a new song was struck up, and the whole joined in the chorus.

WHO says we're not of all trades,
And some they call professions ;
Who wear their wigs or bald heads,
Scotch, English, Irish, Hessians ?

The lawyer and the journal,
Though of a different calling,
And long, so like to turn all,
To tails with caterwauling.

Yet here they join in melody,
Walk hand in hand before us.
And they may go to hell the day,
They spoil the general chorus.

The bat has but its living,
No more than has the cat.
The carter with his driving,
'Tis all he can get at.

The Tinker lives by blowing,
His bellows in the fire ;
The Lawyer lives by throwing,
His snout a little higher.

The Pedlar goes the circuit,
And carries his small pack,
The judge has harder work o't,
Impeachments on his back.

So let us all be liberal,
Let one another live
Dick, Harry, Tom, and Gabriel,
Which ever way they drive.

The Fidler and the Piper,
The flute and fife agree.
The boatman or the skipper,
'Tis all the same to me.

O'Fin come taste the jorum.
And Harum Scarum pledge,
And Horum Harum Horum,
Will take it next I 'ngage.

Here's to the world of worthies,
That love a merry song;
Let all your topsy turvies,
Now drink and hold your tongue.

OBSERVATIONS.

I HAVE spoken of Thomas Paine as an uncommon, but *uninformed man.* The felicity of his stile, and the magic of his wit, is irresistible. But thinking all and reading little, at least, before the writings he has published, his ideas are unborrowed; but he thinks them sole, whereas the human mind had produced them all before. The same thoughts on religion or government have never been expressed with the like illusion; but they have existed in the doubts of the unbeliever; and the theories of political reformers, before his time. This philanthropist; for his vote on the sentence of Louis XVI. proves him to be such, had not sufficiently considered man's nature, and the consequence of a deracination of establishments, before he began to write his books. It is easier to destroy than to substitute. The French revolution, I presume, may have shewn him the difficulty of arresting *the human mind at a proper point.* A book of anecdotes, and remarks illustrative of this, with the opportunities he has had, the discernment he possesses, with the originality of his expression, would have been a valuable work. I could wish him to have done this, and left the priests to themselves, who have trouble enough on their heads with the devil unassisted by Thomas Paine. He had no occasion to tell philosophers, that the *discoveries in astronomy*

were not favourable to some of the dogmata of our theology; for it was the source of melancholy reflection with themselves; and as to the bulk of believers, that have got over it, or never got into it, it is of no use; on the contrary, a great injury. For even supposing the representations of our theologists to be an illusion, why dissipate the vision? Does it not constitute a great portion of our happiness? Are those men supposed to have done nothing for the world who have raised fabricks of this kind to the imagination *even upon false grounds?* Has it not contributed at least to amuse in this life? It is an opiate, under pain, *and eases the mind without affecting the nerves.* But I know what occurs upon this. It is, that it is not taking away the opiate, but changing it. But is there no difficulty in believing any thing, after you have begun to doubt at all. *It is as easy to believe that all things always were, as that they began to be.* So *that if you lay aside revelation*, there is an end of the chapter.—When Plato read his dialogue on the immortality of the soul, all his school rose up, save Aristotle. I presume the logical mind of the youth thought the reasoning unsatisfactory.

On the subject of *oeconomies*, I have touched on the administration of the general government, with what might seem a fling at the executive in the case of the reduction of the navy, &c. It was currente calamo, and more in a vein of pleasantry than cerfair, and correct stricture. For I am aware of the incapacity and consequent presumption, of an individual not master of reasons and circumstances, to undertake to judge of public measures, on a great scale. It is not from between decks in a vessel, that we expect to hear directions to take in sail, to give more sail, or to steer upon a wind; but from an officer on deck who has an opportunity of judging of the way which the

vessel has, and what sail she carries. Carping at public measures which we do not understand is not the part of a good citizen ; at the same time, unless there is a perfect freedom of thought in a government founded on opinion, those that direct the helm, will be at a loss to know the impressions which public measures give, and mistake silence for approbation — Hence oftentimes, a deceitful calm, which is succeeded by a squall, as sudden as it is destructive. I confess I was one of those who instead of diminishing our navy, was for augmenting it. But this was but the idea of an individual, far from the seat of government, and still farther from an opportunity of forming a just estimate of the policy of public measures.

It may be discovered from some things thrown out in the course of this work, that I am apprehensive of giving offence, and the reader may wonder why I should have such apprehensions. It is because I have offended oftentimes, when I had no intention of offending; and when I could not, even afterwards, conceive how the offence could be taken. In early life, admiring the beauty and manners of a young girl, I made a few verses, and presented to her. After having read them, she returned them to me, with visible anger and emotion ; and said she did not know what she could have done to have deserved such treatment at my hands.

Being unfortunate in poetry, my next billetdoux, some years after, to a young lady was in prose. But the consequence was the same. It produced resentment. I could no more divine at the time, what it was that displeased, than I could conjure up a spirit

from "the deep." I disdained to enquire into the cause; for in turn I was offended. But reflecting since, on the nature of the human mind, I resolve it into this, *that I had attempted wit with my compliments, which was mistaken for ridicule.*

There have been occasions when I had in view to try whether I had wit, but meant nothing more than a little pleasantry, and to tickle with a feather, and yet have hurt the feelings of the mind much. When at the academy, I wrote an epigram upon a classmate whom I much respected, and had no conception that it would have been more than the subject of a *laugh to himself* as well as others, but he ran almost mad, and I ran off. It was a fortnight, before the matter could be set right, and I could return again. A like case happened to me some years since. The publisher of a gazette, applied to me relative to the publication of certain strictures on a public character, to have my opinion as to their being libellous. I told him they might not amount, in strictness to a libel; but came rather under the idea of *scurrility.* But, to satisfy his correspondents, who might think themselves neglected, if no notice was taken of what they had sent forward, I would throw the substance of them into a light airy dress of playfulness, and fancy, so as not to wound the man, who was my friend, but make it difficult to say whether the laugh was most at his expence, or that of others. But contrary to my expectation, it hurt much, and occasioned an assault and battery on a journalist who had copied it into his paper.

It cannot be the poignancy of any share of what may be called wit that I possess, if any faculty that I have may be so called; but it must be some peculiarity in the expression, of the effect of which, I am not myself sensible. I have not felt that I am apt to hurt

in conversation, or that my words are liable to be misconstrued, and a meaning drawn from them, which was not intended. Yet certainly the same shape of thought, and turn of expression, must shew itself in common parlance. I can account for the difference on no other principle but this, that an appearance of good humour may rebut the suspicion of malevolence, which might otherwise attach itself to the allusion,

When I had written, and even printed off the first volume of this second part, which was in the course of last summer, looking over it, at some distance of time, I concluded to burn the impression. But not being near a fire, it escaped; and in the mean time, I began to consider, that it was paying but a bad compliment to the understanding of a democratic people, who are in the habit of freedom of speech, among themselves, and allow great liberties, not to say licentiousness to the press, to suspect them of being so intolerant, and so ready to take offence, when it was not meant. Hence it was that I have taken courage to write on, and thought that if it did give offence, I might as well be hanged for an old sheep as a lamb. The truth is, I had not written myself out; but, many more ideas springing up in my brain, and crowding together in a narrow compass, wanted egress, and demanded to see the light. But some of the more forward of them I have actually knocked on the head, having reason to believe that they might do more harm than good at the present time. I thought a pity of several of them, for they struggled hard to live. But, dearies, said I, you must go. It is better you should die than your father. So they went, poor things, to house themselves with the infantile images that are heard only by their plaints in the entrance of the house of night.

——Vagitus et ingens,
Infantumque animæ flentes in limine primo——

CHAPTER V.

THE Lay Preacher having been pronounced by the faculty, sui compos, and come to his reason, had been dismissed from the hospital, and had come to the new settlement. This was now a kind of Botany Bay, to the old country, with this difference, that here the outcasts came voluntarily, but there of force. The Governor received the Lay Preacher with courtesy, and made him his chaplain. The Sunday following he preached to a numerous congregation, in a chapel in the woods. His discourse was taken down in short hand, by the editor of the "Twilight," and has appeared in his paper. As it would seem worth preserving, we have copied it from them, and given it in this work.

THE SERMON.

Shadrach, Meshach, and Abed-nego: Dan. iii. 12.

These are the Hebrew names for Tom, Dick, and Harry, and applicable to this settlement, which is a colluvies of all nations: Mac's, O's, and Ap's; Erse, Irish, and Welsh. But, as in a garden, a variety of

seeds, and plants, is desirable, so in a settlement, where the human species is about to be cultivated, and this not only for the sake of what pleases the fancy, but what is useful for the kitchen, or for medicine. So let no uncharitableness prevail among you, and one cast up to the other, their origin, former occupation, or character. I presume there would be but little to gain or lose on a fair balance, and set off, as the lawyers say, among you. But it is best to consider all accounts squared, and set out in a new partnership.

It falls to the lot of my function to see what good advice I can give, for it is by admonition only that I can serve the commonwealth. I shall leave spiritual things to my brother, the Methodist, who is as busy as a bee in a tar barrel yonder, raising the affections, and disturbing the imagination. I shall content myself with some things merely temporal.

The sin that most easily besets a new settler, is laziness, or to give it a more civil term, *indolence*. He gets the means of life easily. He sets a trap over night; or, he goes out with his gun in the morning, and kills game. The flesh serves for food, and the skin for covering. The soil is fertile, and yields, some thirty, some forty, some sixty, and some an hundred fold. This just by a little stirring of the hoe. For you must know that I myself have been brought up in a new settlement, and know the history of such. Though that settlement, in which I was brought up is now an hundred miles below us, not by the sinking of the earth, but by the frontier pushing back, and settling beyond it. Indolence, I know, is a vice of that situation. For necessity is the mother of invention, and impels to labour.

"Duris in rebus, urgens egestas."
Said the Latin schoolmaster;
"Improbus labor omnia vincit."

Drive out that fellow there, said the sexton. He disturbs the congregation.

The Preacher proceeded.

Now if a man can live without working, he will not work. The cattle of a settler browzes in the woods; and subsists even in the winter, without other shelter, or food, than the under wood, and such shrubbery as covers the head of a valley, where the soil is dry, and the spring rises. The wilderness obstructs the course of the winter winds, and the cabin is warm on the south side of the hill. Hence the temptation to indolence.

But there is a worse sin that easily besets the settler in a new country; these especially that settle in a town, where there is usually a tavern, a store and a race ground for the horse jockies. This sin, or vice is, *intemperance*. Horse jockeying, shooting matches, and all elections, are an inlet to this. Shew me a man that frequents the county town, much, and I will shew you one that is in the way to contract a habit of intoxication. The little peltry he may have got to buy himself a hunting shirt or a little tea, and sugar, for his family, goes into the whiskey bottle.

Now to the application, said Harum Scarum, this will do for the body of the sermon.

As to application, said the Preacher, I will leave that to every man to make for himself. You can all apply the doctrine as well as I can.

"Non omnia possumus omnes."

Said the Latinist.

Will not that fellow be quiet yet? Said the Sexton, drive him out.

By the bye he was out already, for the woods was all the chapel that they had; and a rising ground for the pulpit; but the Sexton meant to remove him

from the circle ; and it was so understood ; for they pushed him back to some distance.

The Governor reprimanded Harum Scarum, for his interruption also ; for though this could be considered but as a substitute for preaching, until a regular clergyman came forward, yet, in the mean time, the rules of propriety ought to be observed, and interruption or desultory dialogue was improper.

Harum Scarum asked pardon, but wished the preacher would stick a little more to his text, and illustrate the words " Shadrach, Meshach, and Abednego."

The Preacher said he had done that already, and would not return to it ; but, as the usual time had elapsed, he would now finish his discourse.

CONCLUSION.

COMPARING great things with small we have written this book in the manner of certain of the ancients; that is, with a *dramatic cast*. The book of Job, is amongst the earliest of all compositions, and after an introduction containing the history of his misfortunes, and malady, introduces the speakers in three different characters, and names, each sustaining his opinion; and giving the author an opportunity to canvass the subject he had in view, the ways of Providence, and to give lessons of humility and resignation to man.

The Socratic school, and amongst these, have distinguished themselves chiefly, Plato in his dialogues, and Zenophon, in his Symposium, or Banquet.

It has been followed by the Romans; of whom Cicero in his book treating of the qualifications of an orator, or, as we commonly stile it, de oratore, is the happiest instance.

Sir Thomas More introduces his Utopia, in this manner. But the most complete model of such structure of writing, is a posthumous work of David Hume, his "Religion of Nature."

The vehicle which I have chosen of supposed travels, and conversations, affords great scope, and much freedom, and furnishes an opportunity to enliven with incident. Doubtless it is of the same nature,

with many things in the novel way, written by philosophic men, who chose that form of writing, for the purpose merely of conveying sentiments, which in a didactic work, under the head of tract or dissertation, could not so easily gain attention, or procure readers.

But the characters which we have introduced, are many of them low. That gives the greater relief to the mind.

The eye withdraws itself, to rest,
Upon the green of folly's breast.

Shakespeare has his Bardolph, Nymn, and Pistol, and the dialogue of these is a relief to the drama of the principal personages. It is so in nature; and why should it not be so represented in the images of her works. We have the sage and the fool, interspersed in society, and the fool gives occasion for the wise man to make his reflections. So in our book.

In the beginning of the work, will be seen, "*Entered according to act of Congress.*" How far this might legally exclude extracts from the work, it is not necessary to consider, as the author gives permission to all Journalists to extract what they think proper; and even essayists who write a book, are at liberty, to copy with all freedom, if they should find themselves at their shifts, or, as we say, a dead lift, for something to diversify their lucubrations. In this case, if the book itself should leave home but little, it will be known abroad by the quotations; and the chances will be multiplied of coming down to posterity, at least as to the title, and perhaps something of the manner, and the execution.

Criticisms, if the bagatelle should seem to deserve it, favourable, or otherwise, will be well taken, with exception only to that stile and manner, which we call scurrilous, not so much for our own sake, as for the sake of those who have a propensity that way, and

whom we would not wish to encourage, by an express invitation. If they indulge it, it is not amiss for them to know that *it is not to our taste, or acceptation.* Such as have no other talent, must be indulged; but it is as we indulge the frailties of mortals in other cases. It is a pleasure to have it known that one lives; yet there is no man who would not rather be unknown than much hurt. But though, what is *undervaluing* must hurt, yet men of the quill, as erst those of the sword, would rather bear a gentle prick than not have the rare pleasure of playing with a master of the noble science of defence. There is no knowing how our guards may be beaten down; or how the adversary may prick in an unguarded part; but it will be a hard case if our *diversions* should prove a serious matter, and through the imperfection of language, or our awkwardness, occasion misconception and ill will. Deprecating this, we consign the volume to the public. We do not say the world; for it has got a bad name. We have heard since ever we recollect, the terms, an ungenerous world; a wicked world; a persecuting world. But the word *public* carries with it a more favourable impression. Public spirit, is spoken of as a virtue, and most men profess themselves disposed to *serve the public.* Taking this distinction therefore, we hope we are safe in giving this thing *publicity*, and under this impression, to use a pun, we commit the impression to the booksellers in the first instance, and from them it may go into libraries, or the hands of hawkers, as may happen. "Time and chance happeneth to all men," and must to things.

THE END.